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7 OCT 1976

MEMORANDUM FOR: Deputy Director of Central Intelligence

FROM : John F. Blake
Deputy Director for Administration

SUBJECT : Investigating the Topic of Creativity and
Controls Within CIA

1. Per your agreement, the Office of Training has been investigating the utility and concept of a symposium-type meeting of thoughtful Agency officers to consider the topic of creativity and controls in CIA. The Center for the Study of Intelligence in OTR has consulted a number of officers in the Office of Training and suggests the following approach:

- a. a small group of no more than a dozen senior officers representing the Directorates and the General Counsel, but weighted to the Directorate of Operations, to meet for two days in early November in isolation to discuss the topic along the lines of the attached outline;
- b. the Center would then forward to you and to Mr. Wells (whose approval has been secured for this approach) the results of that discussion for perusal;
- c. thereafter, and depending primarily upon the results of the discussion, you and he might wish to open up some or all of the group's deliberations for presentation to the Agency at large in a symposium format wherein many voices would have an opportunity to be heard on the issues the group addressed. Alternatively, you and Mr. Wells might prefer to pursue the matter further with some other more limited approach involving further discussion and study.

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SUBJECT: Investigating the Topic of Creativity and
Controls Within CIA

2. The proposed participants in the initial two-day discussion are attached. With your approval of this approach and the individuals suggested, the Center and OTR will proceed to organize the discussion session.

/s/ Michael J. Malanick

John F. Blake
John F. Blake

/s/ E. H. Knoche

APPROVED :

Deputy Director of
Central Intelligence

7 Oct 76

Date

DISAPPROVED:

Deputy Director of
Central Intelligence

Date

Attachments:

- 1 - Outline of Discussion
- 2 - List of Proposed Participants

Distribution:

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Subject Matter for Discussion on Creativity and Controls

The four major areas of investigation and discussion would be:

The nature of the present constraints on CIA

Are these constraints curbing creativity now?

Is it possible to develop some useful values and standards to govern our work now, if so, what are they and should they be enumerated and promulgated by management or are the limits to the nature of CIA activity relatively clear now to our employees?

Should the Agency teach or indoctrinate a set of standards among our officers?

(Below is a capsulized outline of the content that might pertain to each of these topics.)

1. The nature of the constraints on CIA
 - a. External (legal, legislative, budgetary, and the climate of public opinion)
 - b. Internal (self-imposed, and bureaucratic constraints)
2. Are these constraints curbing creativity now?

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3. What values and standards govern our work now, and should some of these be altered (in recruitment of agents and liaison relationships, criteria for covert action, selection of leadership, etc.)? Should they be enumerated by management? Are the limits to the nature of CIA activity clear? Do values differ significantly between the rank and file employees and the leadership of today?
4. Should the Agency teach or indoctrinate the standards we want preserved (how to formalize such indoctrination, maintain its relevance in a period of changing standards, and how to teach it)?

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3 November 1976

MEMORANDUM FOR: Deputy Director of Central Intelligence

FROM : [REDACTED]
Director, Center for the Study of
Intelligence

SUBJECT : Discussion of Creativity and Controls
in CIA

1. Thank you for agreeing to participate in an experimental two-day discussion on creativity and controls in response to our initial invitation on 19 October. We are attaching with this memorandum some items we believe will be of interest to you in advance of the discussion. The first (Attachment A) is a suggested agenda for the discussion broken down into several basic issues and containing some questions related to each issue that are intended to stimulate thought. The group may or may not wish to follow this suggested format.

2. Mr. Knoche will open the discussion with remarks to the group at 8 a.m. on Thursday, 11 November. (He has a 10 a.m. engagement at Headquarters.) You should plan to arrive [REDACTED] before that hour. Mr. Knoche may introduce new questions for our discussion during his opening remarks and we will want to explore any such avenues opened.

3. A map is Attachment B. The drive from Headquarters to [REDACTED] Meals will be provided at [REDACTED] from noon Thursday through noon on Friday, and we hope to complete our work Friday afternoon. There will be a bar open on Thursday evening. Informal clothing will be in order.

4. As Attachment C we have included a copy of Bob [REDACTED] draft of a Canon of Ethics for the Clandestine Service. This may be a focus of some of our discussion. The Agency's regulation interpreting Executive Order 11905, [REDACTED] is Attachment D. Some months ago, CSI organized two gatherings of officers, one senior and one junior, on

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SUBJECT: Discussion of Creativity and Controls in CIA

a related subject in the DDO, and Attachment E is a write-up of these sessions by the CSI. Attachments F and G are two recent magazine articles written on ethics in the intelligence and business communities which may be of use.

5. We look forward to seeing you on 11 November.

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Attachments

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Proposed Order of Discussion
on Creativity and Control in CIA

Session I

8:00 - 9:00 a.m.

Mr. Knoche's Opening Remarks

Session II

9:30 a.m. - 12:30 p.m.

Assessing the nature and extent of present constraints on creativity within CIA, Part I.

External Constraints

- A. Legal. What is the impact in terms of creativity within the CIA of Executive Order 11905, of the Freedom of Information Act, the Privacy Act, the Sparkman Amendment? What is the impact of the various legal cases in which the Agency has been involved?
- B. Legislative. What constraints have the Congressional investigations and legislative oversight thus far placed on the Agency, and are these hampering creativity? (For example, our pledges not to use certain categories of agents and the accompanying trend to catalogue "no no's.") What is the impact on creativity of the presence of Congressional overseers and investigators within the Agency?
- C. External Budgetary. Have reduced resources begun to undercut creativity in the Agency? (For example, is the need for demonstrating externally an immediate payoff hampering long-range investment in programs with uncertain prospects of payoff?)

Session III

2:00 - 5:00 p.m.

Assessing Constraints on Creativity, Part II.

- A. What is the climate of public opinion about CIA?
 - 1. What effect is continuing criticism of our standards and values from both Congress and from the public

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having on our creativity? Are we geared to withstand criticism, or do we let it stifle creativity?

2. How is public opinion likely now and in the future to influence creativity in covert action?
3. What sort of image should the Agency project to the public that will best convince it that we are honorable men working in the service of our country?

Internal Constraints

- A. Internal Budgetary. Is the tight internal accounting and planning associated with budgeting beginning to stifle creativity?
- B. Bureaucratic. What are the bureaucratic constraints on our creativity? Is it mainly a matter of bureaucratic middle-age in the Agency, or are we overmanaging and overconstraining ourselves? Are we too centralized in our management? Are we too big to permit individual initiative? Are the bureaucratic constraints as inhibiting as other constraints?
- C. Security. Are we adequately open in our internal dealings with one another? Is secrecy and clandestinity inhibiting creativity?

Session IV

8:00 - 10:00 a.m.

Assessing our Values, Part I.

- A. What are our basic standards and values today in:

--agent recruitment

--liaison

--production of finished intelligence

What have we done in the past that has proved useful in developing these values? Do present constraints impose a barrier to the informal evolution of values in this manner?

- B. Are there unique professional standards of an ethical and moral nature in intelligence?

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Session V (Friday)

9:00 - 12:00 noon

Standards and Values, Part II.

- A. Are there moral or ethical standards to be applied in determining proper covert action operations? What criteria should be examined before a project is launched?
- B. Are there different values among different age groups in the CIA? (For example, between the leaders and the led?)

Are our managers exhorting one thing and rewarding another?

Has our leadership moved its beliefs and value systems with the prevailing winds in Congress and the public, or does it stand opposed to the prevailing winds? Were do the rank and file stand in this regard?

Do we have delegation of responsibility without delegation of authority? If so, what is it doing to creativity in our leadership?

Is the trend to seek quantified measurement of effectiveness in all programs encouraging management dishonesty?

Is there room for dissent to be expressed without prejudice to the dissenter?

- C. Should a code of standards and values be composed and promulgated in the CIA? Do we need anything else to assure the ethical tone of the Agency?

Session VI

1:30 - 3:30 p.m.

- A. Review of major conclusions reached in the discussion.
- B. Recommendations for a report on the discussion.

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CANON OF ETHICS

PREAMBLE: THE PRINCIPLES UNDERLYING THE PRACTICE OF FOREIGN ESPIONAGE HAVE DEVELOPED THROUGH THE YEARS TO MEET NATIONAL SECURITY NEEDS AND HAVE BEEN RECOGNIZED BY THE CONGRESS AND THE PEOPLE OF THE UNITED STATES. THE SECRET COLLECTION OF FOREIGN INTELLIGENCE AND THE CONDUCT OF COVERT ACTION ABROAD HAVE BEEN ACCEPTED AS NECESSARY TO THE SECURITY OF THE UNITED STATES AND COMPATIBLE WITH THE CONCEPTS OF A FREE SOCIETY. THE NATION HAS ALSO ACCEPTED THE REQUIREMENT FOR SECRECY AND THE NECESSITY FOR THE USE OF TECHNIQUES OF ESPIONAGE, AND BY SO DOING, HAS PLACED SPECIAL RESPONSIBILITIES ON THE AMERICAN ESPIONAGE ESTABLISHMENT. ADDITIONALLY, SOURCES OF FOREIGN INTELLIGENCE HAVE ENTRUSTED THEIR SAFETY AND WELL-BEING TO THE PRACTITIONERS OF THE PROFESSION. THE RELATION BETWEEN THE PROFESSION AND THE NATION, AS WELL AS THE RELATION BETWEEN THE PROFESSION AND ITS SOURCES, IS ONE OF TRUST AND MUST BE PROTECTED AGAINST ABUSE.

THESE PRINCIPLES ARE INTENDED TO AID CASE OFFICERS INDIVIDUALLY AND COLLECTIVELY IN MAINTAINING A HIGH LEVEL OF ETHICAL CONDUCT. THEY ARE NOT LAWS OR REGULATIONS, BUT STANDARDS BY WHICH A CASE OFFICER MAY DETERMINE THE PROPRIETY OF HIS CONDUCT IN HIS RELATIONSHIP WITH SOURCES, WITH COLLEAGUES, WITH MEMBERS OF ALLIED PROFESSIONS AND WITH THE PUBLIC.

CANON 1. THE ONLY OBJECTIVE OF THE FOREIGN INTELLIGENCE PROFESSION IS TO RENDER SERVICE TO THE NATION IN THE FIELD OF FOREIGN INTELLIGENCE. A CASE OFFICER MAY NOT ENGAGE IN ACTIVITIES NOT RELATED TO FOREIGN INTELLIGENCE AND MUST EXERCISE SPECIAL CARE TO AVOID INVOLVEMENT IN ANY SUCH ACTIVITIES.

CANON 2. THE PRACTICE OF THE AMERICAN FOREIGN INTELLIGENCE PROFESSION MUST BE DYNAMIC AND IN TUNE WITH THE TIMES. NONETHELESS, A CASE OFFICER SHOULD AT ALL TIMES PURSUE HIS PROFESSION WITHIN THE BOUNDS OF THE CONSTITUTION AND THE LAWS OF THE UNITED STATES, AS WELL AS THE CHARTER OF THE AGENCY.

CANON 3. A CASE OFFICER SHOULD PROTECT THE IDENTITY OF SOURCES AND PRESERVE THE CONFIDENCES ENTRUSTED TO HIM BY SOURCES. THE PROPER FUNCTIONING OF THE INTELLIGENCE PROFESSION REQUIRES THE PROTECTION OF SOURCES AND METHODS. A SOURCE MUST FEEL THAT HIS SAFETY AND WELL-BEING AT ALL TIMES WILL BE OF UTMOST CONCERN TO HIS CASE OFFICER. INTELLIGENCE METHODS CAN EASILY BE NEGATED BY THE OPPOSITION AND, THEREFORE, SHOULD BE SAFEGUARDED. A CASE OFFICER MAY NOT REVEAL THE IDENTITY OF SOURCES NOR DIVULGE INTELLIGENCE METHODS TO UNAUTHORIZED PERSONS OR ENTITIES.

CANON 4. A CASE OFFICER SHOULD ASSIST IN MAINTAINING THE INTEGRITY OF THE INTELLIGENCE PROFESSION. A BASIC TENET OF THE INTELLIGENCE PROFESSION IS THAT THE TRUST PLACED IN THE

CASE OFFICER SHALL NOT BE ABUSED. A CASE OFFICER MAY NOT USE OR PERMIT THE USE OF HIS SKILLS FOR UNAUTHORIZED OR IMPROPER PURPOSES AND MAY NOT INVOKE THE CLOAK OF SECRECY TO SHIELD FROM AUTHORIZED REVIEW UNLAWFUL, IMPROPER OR INCOMPETENT ACTIVITY. MAINTAINING THE INTEGRITY OF THE PROFESSION TO MEET THE HIGHEST STANDARDS IS THE ETHICAL RESPONSIBILITY OF EVERY CASE OFFICER.

CANON 5. A CASE OFFICER SHOULD ASSIST IN IMPROVING THE INTELLIGENCE PROFESSION. BECAUSE OF THE SECRET NATURE OF THE PROFESSION, CASE OFFICERS THEMSELVES HAVE AN OBLIGATION TO IDENTIFY DEFICIENCIES AND INITIATE CORRECTIVE MEASURES, AND TO PROPOSE AND SUPPORT CHANGES TO IMPROVE THE COMPETENCE OF THE PROFESSION.

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*Classified Secret.

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1. RESTRICTIONS ON INTELLIGENCE ACTIVITIES

a. GENERAL

- (1) The foreign intelligence activities of the United States, including the activities of the CIA, are restricted by Section 5 of Executive Order 11905* (41 Fed. Reg. 7703, 19 February 1976). Those restrictions and other provisions of the Executive Order are quoted in this regulation in italics. Footnotes marked by asterisks in this regulation reflect clarifying comments to the Executive Order provided by the Executive Office of the President on 10 March 1976. Nothing in the Executive Order authorizes any activity not previously authorized or provides exemption from any restrictions otherwise applicable. In addition this regulation reflects the findings and recommendations of the Commission on CIA Activities Within the United States as approved by the President, and incorporates instructions issued by the Director of Central Intelligence during the period August 1973 to date. Unless otherwise specified, the provisions of this regulation apply to activities both inside and outside the United States. References to law are to applicable laws of the United States. This regulation will not be amended without the approval of the Director.
- (2) To ensure that CIA activities are in compliance with the law, Deputy Directors and Heads of Independent Offices shall consult with the Office of General Counsel on all activities whose legality is not clearly established.
- (3) The Inspector General is authorized to review all activities undertaken by CIA and shall have access to any information in CIA necessary to perform his assigned duties. Any activities or proposed activities that may raise questions of compliance with the law, Executive Orders, or with CIA regulations or that otherwise appear improper will be brought directly to the attention of the Director by any of the organizational staff or command components.
- (4) No CIA activity or action by CIA employees shall be authorized which would abridge the Constitutional or legal rights of U.S. persons, whether in the United States or abroad.
- (5) Any employee who has knowledge of past, current or proposed CIA activities that might be construed to be illegal, improper, questionable, or outside CIA's legislative charter, applicable laws, or Executive Orders, or who believes that he or she has received instructions that in any way appear illegal, improper, questionable, or outside CIA's legislative charter, applicable laws, or Executive Orders, is instructed to inform the Director or Inspector General immediately.
- (6) Information, allegations, or complaints of violations of the criminal provisions of the United States Code by CIA officers and employees, or relating to CIA affairs, shall be reported immediately by any employee to the Inspector General, who shall inform the General Counsel. Information, allegations, or complaints of violations of Title 18 of the United States Code involving Government officers and employees shall be expeditiously reported to the Attorney General by the General Counsel in compliance with 28 U.S.C. 535. Such report to the Attorney General shall include an

*Section 5 of the Order does not authorize any activity directly or indirectly, but rather establishes restrictions on already authorized activity. If any statutes, other executive orders or internal department or agency regulations placed stricter regulations on foreign intelligence agencies, Section 5 of this Order does not relax those restrictions.

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evaluation prepared by the Inspector General of the impact, if any, of a prosecution on the national security or on foreign relations of the United States, including intelligence operations which may be jeopardized or intelligence sources and methods which may be comprised thereby. CIA will not exercise a prosecutorial function. Further, the Director shall report to the Attorney General that information which relates to detection or prevention of possible violations of law by any person, including an employee of the . . . department or agency.*

- (7) The provisions of any previously published CIA regulatory issuance inconsistent with the provisions of this regulation are superseded by this regulation.

b. **DEFINITIONS.** As used in Section 5 of Executive Order 11905 as quoted herein in italics, the following terms shall have the meanings ascribed to them below. (It should be noted that certain of these definitions have not been in common use in the Intelligence Community and may be applicable only to the paragraphs of this regulation that are in italics.)

- (1) "Collection" means any one or more of the gathering, analysis, dissemination, or storage of nonpublicly available information without the informed express consent of the subject of the information.
- (2) "Counterintelligence" means information concerning the protection of foreign intelligence or of national security information and its collection from detection or disclosure.
- (3) "Electronic surveillance" means acquisition of a nonpublic communication by electronic means, without the consent of a person who is a party to, or, in the case of a nonelectronic communication, visibly present at, the communication.**
- (4) "Employee" means a person employed by, assigned or detailed to, or acting for a United States foreign intelligence agency.
- (5) "Foreign intelligence" means information concerning the capabilities, intentions, and activities of any foreign power, or of any non-United States person, whether within or outside the United States, or concerning areas outside the United States.
- (6) "Foreign intelligence agency" means the Central Intelligence Agency, National Security Agency, and Defense Intelligence Agency; and further includes any other department or agency of the United States Government or component thereof while it is engaged in the collection of foreign intelligence or counterintelligence, but shall not include any such department, agency, or component thereof to the extent that it is engaged in its authorized civil or criminal law enforcement functions; nor shall it include in any case the Federal Bureau of Investigation.
- (7) "National security information" has the meaning ascribed to it in Executive Order No. 11652, as amended.

*This provision requires that agency heads report to the Attorney General any information they may obtain which relates to the commission of federal crimes. It is not intended to authorize any new collection activities but is intended to allow appropriate dissemination of incidentally collected information which relates to crimes.

**The monitoring of a telephone conversation with the consent of one party does not constitute electronic surveillance under this definition. This is consistent with Title III of the Omnibus Crime Control and Safe Streets Act of 1968. Also, the recording of an ordinary oral conversation by someone who can be seen by both parties to it (and therefore can reasonably be expected to overhear it) does not constitute electronic surveillance.

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- (8) "Physical surveillance"* means continuing visual observation by any means; or acquisition of a nonpublic communication by a person not a party thereto or visibly present thereat through any means which does not involve electronic surveillance.
- (9) "United States person" means United States citizens, aliens admitted to the United States for permanent residence, and corporations or other organizations incorporated or organized in the United States.

c. POLICY

- (1) **RESTRICTIONS ON COLLECTION.** Foreign intelligence agencies shall not engage in any of the following activities:

- (a) Physical surveillance directed against a United States person, unless it is a lawful surveillance conducted pursuant to procedures approved by the head of the foreign intelligence agency (see Annex A) and directed against any of the following:

- (1) A present or former employee of such agency, its present or former contractors or their present or former employees, for the purpose of protecting foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; or
- (2) a United States person, who is in contact with either such a present or former contractor or employee or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry, but only to the extent necessary to identify such United States person; or
- (3) a United States person outside the United States who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities or activities threatening the national security.

- (b) Electronic surveillance to intercept a communication which is made from, or is intended by the sender to be received in, the United States, or directed against United States persons abroad, except lawful electronic surveillance under procedures approved by the Attorney General (see classified Annex B); provided, that the Central Intelligence Agency shall not perform electronic surveillance within the United States, except for the purpose of testing equipment under procedures approved by the Attorney General (see classified Annex B) consistent with law. If the CIA has a legitimate need for electronic surveillance within the United States, it may request the assistance of other agencies that have legal authority to perform such surveillance; the CIA may provide technical assistance for such surveillance. The OGC must be consulted in each instance.

- (c) Unconsented physical searches within the United States; or unconsented physical searches directed against United States persons abroad, except lawful searches under procedures approved by the Attorney General (see Annex C).

*The definition of physical surveillance refers primarily to systematic observation of an individual designed to determine all of his regular daily activities. It also refers to the acquisition of an oral communication by a person not otherwise a party thereto or visibly present thereat through any means which does not involve electronic surveillance. This second half of the definition refers primarily to a situation where a person hides in a room to overhear what persons in the room are saying.

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- (d) Opening of mail or examination of envelopes of mail in United States postal channels except in accordance with applicable statutes and regulations. To the limited extent that CIA may need mail cover information in furtherance of its legitimate activities, it shall make such requests of the FBI.
- (e) Examination of Federal tax returns or tax information except in accordance with applicable statutes and regulations. All requests for federal income tax information will be forwarded to the Office of General Counsel after approval by the appropriate Deputy Director. The Office of General Counsel will process the request in accordance with the Internal Revenue Code and U.S. Treasury regulations.
- (f) Infiltration or undisclosed participation within the United States in any organization for the purpose of reporting on or influencing its activities or members; except such infiltration or participation with respect to an organization composed primarily of non-United States persons which is reasonably believed to be acting on behalf of a foreign power.*
- (g) Collection of information, however acquired, concerning the domestic activities of United States persons except:
- (1) Information concerning corporations or other commercial organizations which constitutes foreign intelligence or counterintelligence.
 - (2) Information concerning present or former employees, present or former contractors or their present or former employees, or applicants for any such employment or contracting, necessary to protect foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; and the identity of persons in contact with the foregoing or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry.** (Note, however, that Section 4(b)(8) of the Executive Order further provides that: "In order to maintain (the security of its intelligence activities, information and personnel), the CIA shall conduct such investigations of applicants, employees, and other persons with similar associations with the CIA as are necessary.") Only the Director or the Inspector General may approve investigation of allegations of unauthorized disclosure of classified information or intelligence sources and methods by United States persons presently or formerly affiliated with CIA. Such approval will be given only upon

*This provision bars infiltration of groups within the U.S. for the purpose of collecting foreign intelligence or counterintelligence. It does not prohibit placement by a foreign intelligence agency of an individual in a group for the limited purpose of developing associations and credentials to be utilized in collecting foreign intelligence or counterintelligence outside of the United States. This provision contains an exception for organizations composed primarily of foreigners and reasonably believed to be acting on behalf of a foreign power. Information on such groups would constitute legitimate foreign intelligence and counterintelligence.

**This exception recognizes several appropriate activities of foreign intelligence agencies. In order to protect classified information, intelligence agencies must run security checks on applicants for employment and employees. Like any Government agency, these agencies must also check out employee backgrounds to ascertain their job suitability. Even after a person has left an intelligence agency, it has a legitimate need to maintain its records on that person should a security breach stemming from his employment occur. Similarly, each intelligence agency has an interest in the suitability and security worthiness of persons who contract with it or are employees of its contractors working on its projects and requiring access to classified information. Each intelligence agency must also maintain records on persons who, without necessarily being employed by it, are given access to its classified information. Such persons would include employees of other Government agencies who require access to its classified information and private citizens who voluntarily agree to be cleared to receive classified information in order to aid in their voluntary reporting of foreign intelligence information to the agency.

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determination that classified information or intelligence sources and methods may be jeopardized by the disclosure and that the information relating to the unauthorized disclosure was acquired as a result of affiliation with CIA. Such investigations must be coordinated with the FBI when substantial evidence suggests espionage or the violation of a federal statute. The above does not preclude the Director from exercising his statutory authority to fulfill his responsibility for CIA's proper administration. In this regard the Director also may approve such inquiries as are necessary, proper, and legal to resolve allegations reflecting adversely on an employee's suitability for continued employment. When necessary for security reasons, investigations will be conducted without revealing CIA or U.S. Government interest. Such investigations will be conducted by federal government personnel. A record must be prepared for all investigations undertaken by CIA to reflect that the investigation was duly approved, by whom it was approved, the factual basis for undertaking the investigation, and the results of the investigation.

- (3) *Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons.*
 - (4) *Foreign intelligence or counterintelligence gathered abroad or from electronic surveillance conducted in compliance with subparagraph c(1) (b), or foreign intelligence acquired from cooperating sources in the United States.* The accumulation and use of names for this purpose will be limited to the foreign intelligence objectives of CIA.*
 - (5) *Information about a United States person who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities.*
 - (6) *Information concerning persons or activities that pose a clear threat to foreign intelligence agency facilities or personnel, provided, that such information is retained only by the foreign intelligence agency threatened and that proper coordination with the Federal Bureau of Investigation is accomplished.*
- (2) **DISSEMINATION AND STORAGE.** *Nothing in this paragraph shall prohibit:*
- (a) *Lawful dissemination to the appropriate law enforcement agencies of incidentally gathered information indicating involvement in activities which may be in violation of law.*
 - (b) *Storage of information required by law to be retained.*
 - (c) *Dissemination to foreign intelligence agencies of information of the subject matter types listed in subparagraph c(1) (g).*

*This provision recognizes that information on the domestic activities of U.S. individuals can constitute legitimate foreign intelligence or counterintelligence. For example, the fact that a U.S. citizen is recruiting mercenaries within the U.S. to fight in a foreign war constitutes foreign intelligence. Although counterintelligence normally involves either employees of an intelligence agency (of a foreign country) or persons acting on behalf of a foreign power, sometimes a U.S. person may be seeking to disclose national defense information. Therefore, foreign intelligence agencies are permitted to have such information. However, such information is not permitted to be collected by spying on Americans within this country. Such information may only be gathered abroad, or from electronic surveillance conducted through procedures approved by the Attorney General, or from cooperating sources in the United States.

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- (d) Dissemination of foreign intelligence and foreign counterintelligence information directly to the interested federal agency. Dissemination of such information beneficial to local law enforcement agencies will be made only through the FBI.
- (3) **RESTRICTIONS ON EXPERIMENTATION.** *Foreign intelligence agencies shall not engage in experimentation with drugs on human subjects, except with the informed consent, in writing and witnessed by a disinterested third party, of each such human subject and in accordance with the guidelines issued by the National Commission for the Protection of Human Subjects for Biomedical and Behavioral Research. Experiments on subjects who have given informed consent will be undertaken only with the Director's specific approval.*
- (4) **ASSISTANCE TO LAW ENFORCEMENT AUTHORITIES**
- (a) *No foreign intelligence agency shall, except as expressly authorized by law (1) provide services, equipment, personnel, or facilities to the Law Enforcement Assistance Administration or to State or local police organizations of the United States or (2) participate in or fund any law enforcement activity within the United States.*
- (b) *These prohibitions shall not, however, preclude: (1) cooperation between a foreign intelligence agency and appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of the foreign intelligence agency or preventing espionage or other criminal activity related to foreign intelligence or counterintelligence or (2) provisions of specialized equipment or technical knowledge for use by any other Federal department or agency.*
- (c) The following relationships may be entered into to support legitimate activity of the CIA:
- (1) *LEAA assistance may be requested through the Office of Security for evaluative information on equipment and techniques with respect to terrorist problems.*
- (2) *Contact may be maintained with and assistance sought from state and local police organizations in the course of normal background and security investigations, for the protection of CIA personnel and installations, and in connection with other matters permissible within the CIA charter.*
- (3) *Contact also may be maintained with police department bomb squads to observe their techniques in identifying, handling, and disarming terrorist bombs and to discuss technical aspects of countering explosive devices. The purpose will be to obtain information on bomb handling and not to train the local police departments.*
- (4) *Attendance may be authorized at explosive ordnance disposal conferences and similar briefings or seminars to keep abreast of new developments in terrorist techniques and countermeasures.*
- (5) *It is appropriate for CIA to have individual relationships with state and local police organizations for cooperation in training CIA employees in the United States preparatory to their assignment abroad. It should be clearly indicated that this is a training relationship, and no assistance will be given to police organizations in the course of training CIA personnel.*

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- (5) **ASSIGNMENT OF PERSONNEL.** *An employee of a foreign intelligence agency detailed elsewhere within the Federal Government shall be responsible to the host agency and shall not report to such employee's parent agency on the affairs of the host agency, except as may be directed by the latter. The head of the host agency, and any successor, shall be informed of the detailee's association with the parent agency. (In accordance with*

CIA personnel assigned to other government agencies for cover purposes, and liaison officers, are not considered detailees.)

- (6) **PROHIBITION OF ASSASSINATION.** *No employee of the United States Government shall engage in, or conspire to engage in, political assassination.*

(7) **RELATIONS WITH FEDERAL, STATE, AND LOCAL AGENCIES**

- (a) **General.** Each Deputy Director and Head of Independent Office is responsible for the propriety of all agreements, arrangements and practices under his jurisdiction in support of or in cooperation with state, local or other Federal agencies, or private organizations in connection with services these organizations provide to such government units. (See Annex E for procedures to obtain approval for CIA assistance to other government components.)

- (b) **Support to Department of Defense (DoD) Intelligence Elements.** CIA is authorized to provide technical guidance, training, equipment and similar assistance to DoD intelligence elements related to their appropriate foreign intelligence and foreign counterintelligence responsibilities provided such assistance is approved by the appropriate Deputy Director. Assistance also may be provided to DoD U.S.-based counterintelligence operations that are directed against foreign intelligence targets, provided such assistance has been approved by the Deputy Director for Operations and is in accord with the procedures specified by Annex D.

(c) **Narcotics Intelligence**

- (1) Section 4(b)(3) of Executive Order 11905 provides that the Central Intelligence Agency shall "collect and produce intelligence on foreign aspects of international terrorist activities and traffic in narcotics." However, no CIA narcotics intelligence collection operations shall be specifically directed at individual U.S. persons abroad except as provided for in paragraph 1c(1)(a)(3) above. Information incidentally acquired in the course of normal foreign intelligence collection or of operations against foreign narcotics intelligence activities may be provided to the Drug Enforcement Administration (DEA) and other federal agencies. The general purpose of furnishing such information is for intelligence and not prosecutorial purposes.

- (2) Field installations shall alert headquarters as soon as it becomes apparent that an anti-narcotics operation or a report intended for formal dissemination has domestic U.S. implications or leads. Such information, including the identity of U.S. persons, may be given to DEA. The foreign operation as such shall remain, however, under CIA control.

- (3) CIA may provide technical equipment for overseas operations of DEA as approved by the Deputy Director for Operations. CIA will not provide any support to DEA domestic operations, except


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that CIA may give to DEA technical briefings unrelated to any pending investigation in the United States. Technical equipment for DEA operations abroad may be provided only under the following conditions:

- (a) The equipment is not operated by CIA personnel.
- (b) The request for support is accompanied by full explanation of the planned use of the equipment and of the authority under which it will be used.
- (c) The request is approved by the Deputy Director for Operations with the concurrence of the Office of General Counsel.
- (d) **CIA Participation in Interagency Domestic Intelligence Discussions.** CIA participation in any interagency discussions on domestic intelligence will be restricted to the provision of foreign intelligence that might bear upon the matters being considered.
- (e) **Limitations on Safehouses.** CIA safehouses within the United States shall not be used by state or local agencies. Federal agencies may utilize such safehouses only on foreign related matters and then only with the approval of the Director.
- (f) **Relations with the U.S. Postal Service.** CIA may provide technical assistance to the U.S. Postal Service, such as briefing the service on CIA's knowledge of letter bombs. CIA will comply with all United States postal laws and regulations.
- (g) **Relations with the U.S. Secret Service.** CIA may provide assistance to the U.S. Secret Service in the performance of its protective duties in accordance with Public Law 90-331 dated 6 June 1968, which authorizes such assistance from other government agencies. In addition, other normal liaison relationships may be maintained between CIA and the Secret Service.
- (h) **Relations with the Immigration and Naturalization Service.** The entrance into or departure from the United States of non-U.S. persons under the sponsorship of CIA will be conducted in accordance with normal Immigration and Naturalization Service procedures or as provided for either in Section 7 of the CIA Act of 1949, as amended (50 U.S.C. 403h), or in the agreement between the Immigration and Naturalization Service and the CIA dated 10 February 1955. If special circumstances require that a non-U.S. person under sponsorship of CIA enter or leave the United States without using his true identity, the approval of the Immigration and Naturalization Service is required. In addition, other normal liaison relationships may be maintained between CIA and the Immigration and Naturalization Service.

(8) **PROVISIONS RELATING TO OTHER ACTIVITIES**

- (a) **Counterintelligence Activities.** CIA is authorized to engage in counterintelligence activities in conformity with requirements of law and National Security Council directives, including certain services of common concern as specified in NSCID 5, paragraph 3.
 - (1) With respect to counterintelligence activities in the United States, CIA must conform with procedures specified by the Attorney General (see Annex D).
 - (2) With respect to counterintelligence activities conducted abroad, CIA operations directed specifically at United States persons will

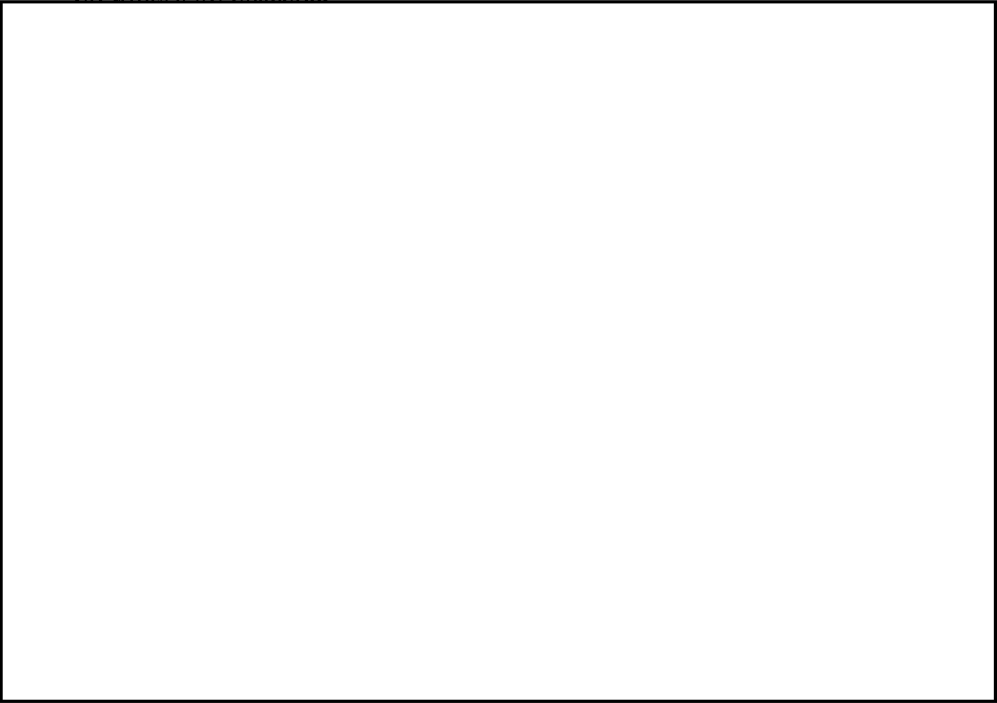
conform to paragraphs 1c(1)(b) and (c) above and will be coordinated with the FBI and/or with other federal agencies as appropriate.

- (b) **Polygraphing of United States Persons.** CIA internal polygraphing programs authorize polygraph examinations of U.S. persons and are restricted to CIA applicants, employees, individuals being considered for or holding CIA security clearances or approvals, or other persons involved in CIA operations. Polygraph examinations of other U.S. persons will be conducted only with their consent and only with the prior written approval of the Director.
- (c) **Foreign Economic Activities of U.S. Persons.** No operational or analysis project will be undertaken specifically to cover the foreign economic activities of a U.S. person. This restriction would not preclude studies of foreign economic activities that include analyses of the roles of U.S. firms, for example: foreign demand for U.S. grain; U.S. technology transfer to the USSR; foreign discrimination against U.S. firms; and studies evaluating the importance of the U.S. in worldwide economic activities, such as shipping and energy. To the extent that information on the economic activities of U.S. citizens or firms abroad is incidentally acquired in the course of CIA's normal foreign intelligence activities and is significant to other U.S. agencies, it may be forwarded to such agencies with the approval of the Deputy Director concerned.
- (d) **Cover.** Cover as established, coordinated with, or arranged by the Cover and Commercial Staff is appropriate support for our foreign intelligence objectives. To the degree that cover and proprietary arrangements are required, a clear justification will be developed as to the relationship to and support of CIA's mission.
- (e) **Proprietary Arrangements.** The operations and development of essential proprietary arrangements will be conducted as necessary to perform the functions and duties of the Central Intelligence Agency. CIA proprietary companies shall not operate on a commercially competitive basis with United States businesses, except to the extent necessary to establish commercial credibility or to achieve the clearly defined foreign intelligence objectives outlined in Executive Order 11905, Section 4(b), paragraphs (1) through (9). No investments by a proprietary company will be made on the basis of any substantive intelligence obtained from CIA.
- (f) **Cover for Other Agencies.** CIA shall not provide cover for other Government agencies except as approved by the Deputy Director for Operations or his designated representative, Chief, Cover and Commercial Staff, as stipulated [redacted]
- (g) **Identity Documentation.** The Deputy Director for Operations in consultation with the Office of General Counsel shall strictly control the issuance, accountability and recovering of identity documentation procured or produced by CIA for its operations or in response to requests from other agencies.
- (h) **Domestic Events.** All Deputy Directors shall exhibit particular sensitivity to the possible coincidence between CIA training, testing, operational, or support activities and significant domestic political, or other events which the unwitting observer could interpret as improper Agency activity. This refers particularly to political conventions, the

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activities of dissident groups, etc., in which cases CIA activities should be terminated, moved away, or suspended temporarily.

- (i) **Support to the White House Office.** Any support requested by or extended to the White House Office, excluding the dissemination of foreign intelligence, must have the prior approval of the Director.
 - (j) **Target Watchlists.** No list shall be developed as a target watchlist on American citizens.
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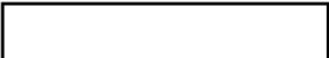
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**PROCEDURES TO OBTAIN APPROVAL FOR CIA ASSISTANCE
TO OTHER GOVERNMENT COMPONENTS**

- (1) Each responsible official will report to his Deputy Director or Head of Independent Office for approval every request for initiation or continuation of assistance to other government components excluding requests:
 - (a) Concerning activities explicitly authorized by NSCIDs, DCIDs, or by paragraphs 1c(7)(b) through (h) of this regulation;
 - (b) For permission for third agency dissemination;
 - (c) For preparation or passage of information, analyses of information, or reports concerning foreign phenomena, including foreign personalities;
 - (d) For security clearances and related information under Executive Order 10450 or Executive Order 10865;
 - (e) For employment references.
- (2) Reports relating to requests for initiation or continuation of support or cooperation as noted above will cover administrative, financial or logistical assistance, as well as operational and intelligence support. Such reports will include a description of the activity, relevant dates, organization(s) involved, rationale for activity, financial and manpower requirements and name of Agency employee to consult for additional information. Every such request which includes a prospective financial commitment by the Agency or which will entitle the Agency to an advance or reimbursement must be referred to the Director of Finance for consideration before final commitment is made. A copy of every request (including requests approved by the Inspector General under the provisions of subparagraph (3) below) relating to an activity which will involve either the receipt or expenditure of funds will be provided to the Director of Finance.
- (3) Deputy Directors and Heads of Independent Offices, in assuring the propriety of all undertakings covered by this regulation, will exercise approval authority on requests with which they concur for any new or continuing relationship compatible with relationships for which legality and propriety have been previously established, except requests for activities, undertakings or agreements that will involve policy or resource implications such as:
 - (a) Undertakings that would establish significant new policy or raise questions that suggest the desirability of establishing an Agency-wide policy;
 - (b) Agreements that contain provisions that must be cleared with, or reported to, the Office of Management and Budget;
 - (c) Activities that appear to be in conflict, or overlap with, other existing agreements or understandings with high level officials of other U.S. Government agencies;
 - (d) Arrangements of such complexity, sensitivity, or importance that the Director of Central Intelligence should be informed of them;
 - (e) Undertakings of such magnitude that reprogramming or reallocation of funds will be required;
 - (f) Arrangements which while technically appropriate may appear to conflict with the spirit of existing law or policy.Deputy Director and Heads of Independent Offices will forward to the Inspector General any report with which they concur involving an undertaking of a character for which no precedent of legality or propriety has been established or which involves policy or resource implications such as those identified above. The Inspector General, after requesting and receiving the written

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opinion of the General Counsel, will recommend initiation, continuation, termination or modification of the activity as he may deem appropriate. Where there is disagreement by the Deputy Director, the Inspector General or the General Counsel, the report will be forwarded to the Director for resolution.

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CENTER FOR THE STUDY OF INTELLIGENCE

Some General Ethical Guidelines for Today's Directorate of Operations

Two seminars involving different generations of DO officers were recently sponsored by the Center¹ to discuss some of the attitudes towards operational patterns held today in the DO. The general objective was to see how widely shared such attitudes are, and to test opinions on including some of them in our training programs for young Case Officers. Separate papers setting forth the issues for discussion were prepared for the seminars. We found general agreement on the proposition that our most valuable and enduring operational successes stemmed from situations involving shared goals, rather than pure manipulation. The younger officers were adamant that we should not in the future recruit people for what we recognize clearly to be high-risk-to-life missions as they believed has been done in the past.

Both groups of officers shared relatively high ethical standards in connection with their professional life. They were widely divergent on whether there is an adequately functioning system to express dissent or alternative viewpoints up the line within the DO: the senior officers believing there is and the young officers vigorously disputing that view. There was also wide disagreement on the number of officials in DO leadership positions who merit emulation and on whether "used car salesmanship" is a desirable trait for DO officers. Younger officers thought it was not. Both groups were united on the value of trimming down the size of the DO and in desiring a modified system of selection out.

The two groups concluded that while there is much shared idealism and many common ethical goals among our officers across the board, it would not be wise to attempt to include

¹

A seminar involving nine senior officers (GS-16/18) was held on 12 March, and one involving six junior officers from age 25-35 was held on 2 April. Each session had participants from almost all of the DO divisions.

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ethical guidelines in our formal training courses; there are better and more direct, personal ways to assure high morale and esprit de corps. Several interesting suggestions for the training of young Case Officers arose from the two sessions. Attached are eight questions addressed by the two seminars and the views of the participants on each.

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1. Are there successful patterns in agent recruitments?

The senior group tended to agree that the most valuable and enduring operational success stemmed from situations in which there was a shared set of goals between the Case Officers and the agents, and that operations based on manipulation, blackmail and coercion worked less well. One of the senior group pointed out that old and discredited approaches die hard, although one of the younger officers indicated that SE Division is doing very well at steering young Case Officers away from the effort to use handles that are no longer deemed appropriate in planning recruitments.

The younger group was not in full agreement with the senior officers on this question. One noted that if a

Officer. Several younger officers said that a group of shared goals is desirable and will usually work better, but one noted that it is a new generation of targets the Agency is trying to recruit, covering new subject matter. Therefore, the Agency must be flexible enough to apply anything needed that will work. The United States (and the CIA) is no longer looked upon with great respect abroad and it will be increasingly hard to find goals that others share. Furthermore, good agents are not always commendable human beings who would normally share U.S. or Agency goals.

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2. Should the DO use extreme ruthlessness in its operational patterns?

The younger officers generally agreed that they would not recruit any agent who would run the risk of almost certain death in serving the Agency. The old teams and air-dropped Korean War teams were cited as examples. Only one of the younger officers believed it would be morally acceptable to recruit someone running such a risk, but only under circumstances where the agent was aware of the risk involved and still was willing. Both the senior and junior officers believed that the DO treats its agents better in some respects than the Agency officers treat each other.

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3. Are there shared ethical standards among DO officers?

One member from each group indicated that there are some qualifications to the "normal" ethical standards that one must hold to be successful in DO operations. The senior officer said, "We have to recognize that 100 percent of our clandestine service activity is in effect breaking the laws of some nation." The younger officer said, "You can't be completely moral and be doing this kind of business." The latter received general agreement from his peers. In both groups there was at least one officer who believed he had to live a split personality, one in the professional world of operations and the other in his private life. Some in both groups believed that those who cannot rationalize in some way their moral standards with their professional conduct should get out or be pushed out of the DO, but there was a general rejection of across-the-board amorality. In discussing motivational patterns, it appeared that the senior group entered intelligence work because of patriotism and the then popular internationalist concepts of U.S. involvement abroad. The younger officers entered the profession to work on foreign affairs, go overseas, and to join an elite and small organization where they would be granted responsibility relatively early. They believed CIA offered them this. Despite somewhat differing motivation they appeared to share common ethical standards.

4. Is there room for dissent in the Agency?

The senior officers agreed that there was a right of dissent in the Agency which worked effectively, and that this had led to organizational loyalty which is a key ingredient that should be encouraged. They also agreed that the Agency had established a good record of following orders from the senior policy level outside the Agency. It was the Agency's record of dissent on measures being considered at the policy level which had helped us in recent congressional investigations.

The younger officers were not in agreement with their seniors on this point, even when the issue was softened, at their insistence, to "open to alternate viewpoints." One said there are many junior officers with legitimate gripes. The ideal leader who explains his reasons for his position to a disagreeing subordinate and then invites the subordinate to take the matter up the line doesn't often appear. One

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officer said that this ideal works in some Divisions. Another officer said there are few critically important decisions that get turned around by objection from below. Still another said that criticism, personal initiative, and responsibility in general is de-emphasized in the DO. Criticism "rocks the boat" and endangers one's career. Another assented, saying disagreement risks bringing on the stigma of a malcontent and complainer, and that even constructive criticism is not acceptable.

Both groups agreed that the newest generation of junior officers is a more discontented lot, and neither group believed this discontent was fully justified. One younger officer said that dissent required responsibility, and another said the right of dissent does not presuppose correctness.

5. Are "careerists" (competent SOB's) prevailing in the DO?

(This question arose from one of the issues included in both the pre-seminar papers: that it is consistently the same sort of Agency officer who has hurt us when we are investigated, either by his maladroitness supervision of his employees, abuse of the prerogatives of his office, or judgmental failures of large magnitude--or a combination of the above failures. He is interested in his own advancement ahead of everything else.)

The senior group recognized that there are still careerists around, but believed that they are declining in numbers and influence. The younger officers were far less sanguine than their elders and much more critical of careerists in all parts of the DO. One said, "There are some of the most despicable men I've known in high leadership positions in the DO. They cheat the government at every turn they can, and use their position to enhance their own well-being. Then they try to tell young officers to be honest! . . . A man can be tremendously successful operationally (recruiting lots of agents) and still be a lousy human and leader for whom no one can have respect." Another said there is a large body of people who are successful through "flim-flam," and some of their bosses don't know who they are, even if their peers and subordinates do. The DO is particularly susceptible to this.

A young officer said, "There are a large number of competent SOB's at senior levels, there is a generation gap; some top leadership from my moral standpoint should not be in their positions." Another said there are more than enough of such men in this Agency, but "you find that everywhere and

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you never can rid yourself of them." It is a question of how you deal with them. The system unfortunately rewards these people. A fifth said the problem is somewhat self-perpetuating because in the DO, senior men of this type promote their own kind.

Some of the older officers had insisted, perhaps with a touch of cynicism, that what we needed to recruit in the way of young officers was "good used car salesmen." While this was not universally a view held by the senior officers, it was definitely rejected by the younger officers who believed that was the wrong type of person to bring into the DO.

6. Is a trimmed down bureaucracy good; should the DO have a selection out system?

The two groups were in agreement on this--a trimming down is good and there should be a somewhat modified selection out system. The senior officers believed there should be serious weeding out at the three-year level. This should be after one overseas tour which is the only real world in which to test the younger officers (and the junior group agreed). The older officers believed the Agency is learning to eliminate unnecessary activity and to concentrate only on the most essential things. This should winnow out the less effective and assure overseas assignments only to the most capable officers. They favored a modified selection out system and believe now, if ever, is the propitious time to install a system in which "twice passed over is out," except for those "we have carried so long that we have now a moral obligation."

The younger officers seemed to favor a selection out, at least getting the incompetents out of the DDO, "some of whom could make fine analysts or do other work." One said we should not hesitate to stop promoting those who had reached their peak at the GS-12-14 level, even a GS-11 "street Case Officer" could continue to do good work at that grade level indefinitely. The DO should try to identify those without potential before they are 35 years old and move them before that time. One officer expressed the belief that trimming the size of the outfit was making performance more important and therefore flim-flamming more difficult to perpetuate. An idea put forth by another younger officer was that the officer of the future should

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not be of the "cold war" syndrome when energy, food, population control, and economics are major problems. This officer also suggested that promotion panels should have peer and subordinate-grade officers on them to assure that a balanced picture of the officer was received before promotion.

7. How should the DO instill general guidelines for conduct, good morale and an esprit de corps?

The two groups were in agreement that there should be no attempt to incorporate such matters into formal training programs--a move they believed would be counterproductive. One young officer who was a former marine said, "You just can't use the Marine Corps system for building morale or esprit de corps." The senior officers and the younger officers believed that examples and person-to-person informal contact were the only ways to spread these values. Several younger officers said they had received good guidance and experiences from some of their contacts with senior officers and leaders. Both groups noted that the best morale and esprit de corps can be built overseas working in close relationships with one another outside of the Washington bureaucracy.

The senior officers emphasized "organizational loyalty" as an important value which they believed existed, whereas the junior officers placed more stress on "honesty," a lack of which they strongly sensed at senior levels. There was consensus on the importance of esprit de corps but the youth did not seem to favor a "regimental history" kind of approach suggested by a senior member.

8. What should be added to DO training courses?

While no one favored teaching ethical guidelines in the formal training courses, some senior and junior officers favored raising philosophical and moral issues for occasional discussion to focus trainees upon the problems they will face and to spot and move out those who will not be able adequately to deal with such issues. Some of the younger officers begged for more frankness and candidness from the training Case Officers on what operations are really like and for a touch of the "bad" with the good "heroics." One young officer noted that there is little Agency training in interrelating with your subordinates in a supervisory sense. Training should include non-typical cases as well as the arch-typical, and trainees

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should be exposed to those who worked on such cases. There is not enough training on terrorist, drug, or technical operations. The Senior Operations Course failed, according to one younger officer, to take enough advantage of the experience of those in the course. This man said that the mid-career course's half-hour presentations by each class member was the most valuable part of the entire course. There was an appeal by another younger officer to stress professionalism and honesty only, and that high morale and esprit de corps would follow on their own.

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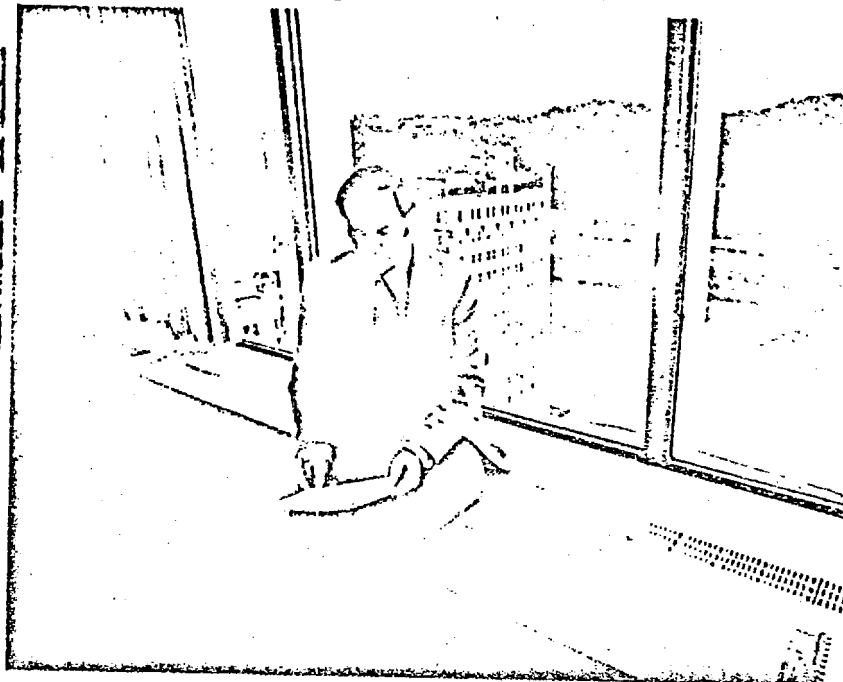
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For these two men, ecological controversies touched off career crises. Economists, such as John R. Commons, quit a \$40,000 job after protesting a nuclear power project; Charles Beasley, below, believes he was denied a tenured professorship over a strip-mining issue.

Learning Computer Series
The Consulting Division



When Conscience and Career Collide

Deciding what to do is toughest when you're not directly involved in a questionable practice but you know it's going on.

by Avery Comarow

A young management consultant, his Harvard M.B.A. still warm, had completed a series of high-priced studies for an important client. He knew he could offer nothing more of value to his client, but his superiors weren't satisfied. They wanted the client pressured into still more contracts. Though it disturbed the young consultant to do superfluous work, he went along.

Another man, in his late 30s, was the \$30,000-a-year chief financial officer of a large manufacturing concern. Late last year he learned that company representatives were routinely bribing distributors to push the firm's products. Unless the payoffs ceased, he told the company's chief executive officer, he would quit. The ex-

ecutive replied sharply that he knew all about the payoffs and saw no reason to stop them. The financial officer promptly quit. He is still without job, says a close friend, but remains convinced that he did the right thing.

The ethical thicket

Making decisions of conscience isn't something you do every day at the office, but most people, whether they're in government, industry or some other field, probably struggle with questions of right and wrong at least a few times in their careers. "In most everybody I've interviewed, he's run into these ethical problem reports a Chicago executive recruiter. Reassuringly, however, the message from dozens of business and acaden

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sources is that a blend of common sense and caution can usually provide a path out of the ethical thicket without giving either your career or your conscience.

In a 1973 report by the American Management Associations, about 70% of nearly 3,000 businessmen surveyed said they at least occasionally were expected to compromise their principles to conform to their company's or their boss' standards. Moreover, they ranked "reputation for firm moral and/or ethical convictions" at the bottom of a list of factors considered in awarding promotions, behind "family and ethnic background" and far to the rear of "personal contacts (who you know)."

Some unethical behavior may simply offend your scruples—putting profits above environmental considerations or pushing a customer to buy a product that he doesn't need. Michael Lovdal, who teaches a course in business policy at the Harvard Business School, says: "Milking clients bothers a lot of my former students who are management consultants, but most go along because it's the kind of decision that can be rationalized without too much trouble. You can tell yourself that there's always something you can study for a client." Other categories of misbehavior are plainly illegal—tampering with corporate accounts, for example, or selling horse meat as sirloin.

"You have to decide where to draw the line," says Jacques Nordeman, chairman of MBA Resources Inc., a New York executive search firm. Nordeman draws his line at little things: he won't so much as take home office pens and pads. "Little things turn into big things," he believes. "The safe thing to do is set the highest possible standards for yourself." Herbert Edelhertz of the Battelle Human Affairs Research Center in Seattle, former chief white-collar crime prosecutor for the U.S. Justice Department, puts it this way: "Don't ask the question, 'Will anyone ever see what I've done?' Assume they will."

Don't explain

When the pressure is on to relax your own standards, the decision may be difficult but at least it's uncomplicated—either you do or you don't.

Message from *Money's* sources is equally uncomplicated: don't. In saying no, be tactful but firm. Refuse immediately rather than thinking it over;

delaying can magnify the matter into a major issue. Refrain from bravado and long explanations; justifying your position probably will embarrass the other person—and may give him something tangible to pick apart.

A former personnel director of a large midwestern drug company who complied with an order he considered unethical now wishes he hadn't. His instructions were to find a replacement for a friend of his who was to be demoted—undeservedly, in the personnel director's opinion. He was also forbidden to tell his friend, who nevertheless increasingly sensed something amiss as the search went on, and begged to know what it was. Upset by the tug of war between his job and his friend, he quit after finishing the search. His friend, meanwhile, had read the signs correctly and severed the friendship. "I lost the friendship of a guy I'd grown up with," says the personnel director, now a successful executive recruiter. "I felt used. The whole shabby thing violated my personal ethics, but I didn't know how to say no. Today, given the same order, I wouldn't do it. I'm sure I would have kept my job, and I know I would have kept my integrity."

"I was squeezed out"

Robert D. Lamson, a West Coast economist, wasn't asked to do anything wrong but to stop doing something he thought was right. Lamson had a \$40,000-a-year job with Boeing Computer Services Inc., a Boeing Co. subsidiary. On his own time he became a spokesman for two local groups that, for reasons of safety and economy, opposed four nuclear power plants scheduled to be built near Seattle. Though he emphasized in his papers and debates that he spoke for the group and not for Boeing, the increasing publicity Lamson was attracting embarrassed Boeing officials. They told him to choose between his job and his cause. He quit last April.

"I was squeezed out—that's what it amounts to," says Lamson. "It's very difficult for someone in a large corporation to take a moral stand on public issues without jeopardizing his career, and when that's true, our society has a serious problem." Peter Bush, Boeing's director of public relations, calls Lamson "a good man and topnotch economist" caught in a "conflict of interest" because his public statements might have affected the company's future involvement in nu-

clear power. Lamson is supporting his family with the proceeds of small consulting contracts—the first of which came from Boeing—but his future is uncertain.

The case of mining specialist Charles Beasley has taken a happier turn. In 1973, Beasley, then associate professor of mining engineering at Virginia Polytechnic Institute, wrote to U.S. Interior Secretary Rogers C.B. Morton, urging the Interior Department to study better ways to reclaim strip-mined land in states where steep slopes make reclamation difficult. That same year VPI denied Beasley's application for tenure. "Chuck Beasley's stand on strip mining had nothing to do with the tenure issue," says Paul E. Torgersen, VPI's dean of engineering. "I made my decision on strict economic grounds. There simply wasn't enough room for another tenured faculty member."

Unlike Lamson, Beasley found being out of a job "an opportunity to grow." He currently works in Charleston, W.Va. as regional manager for one of the country's largest mining consultants. Many of the controls on strip mining that Beasley urged in 1973 now are law, and he calls himself "a happy man."

To leave or fight

Deciding what to do is toughest when you are not directly involved in a questionable or dishonest practice but you know it's going on and disapprove of it. "In our society the sense of being a squealer is very strong," says psychologist Harry Levinson, whose Levinson Institute in Cambridge, Mass. advises companies on organizational changes. "Faced with behavior that offends them seriously enough, most people choose to leave rather than fight. They feel any victory would be Pyrrhic, and perhaps it would. People who pursue a grievance almost always damage their careers in some way, and there's no guarantee of protection."

More bluntly, Robert Townsend, the retired top executive who wrote *Up the Organization* (1970), a dissection of corporate foibles, says: "My advice would be to mind your own goddamn business if it's a minor matter. In the first place, I don't believe in imposing my morality on somebody else. Besides, little things like padding expense accounts are built into corporations. They're safety valves, little ways people can get back because

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...in some way. When I was with American Express, people used to brag to me about cheating on their expense accounts. What the hell it didn't amount to all that much and made them feel better, so what harm did it do?"

Not everyone can close his or her eyes to a boss who doctors the budget, a co-worker who takes "pus money" from suppliers or even, perhaps, a friend who pads expense accounts. But those who decide to take action become extremely vulnerable. If your boss finds out that you are complaining about him—or, to take an extreme case, if you criticize your employer publicly—"you have virtually no legal protection," warns Arthur S. Miller, a constitutional and administrative law specialist at George Washington Law School in Washington, D.C. There's less risk for public than for private employees, since recent court rulings support the rights of teachers, civil servants and other government workers to speak out without losing their jobs. Litigation is messy and expensive, however.

Four kinds of action

Before acting rashly, discuss whatever is bothering you with a close friend—one within your organization if possible—and with your spouse. It may be that your huge indignation will turn to mild resentment once the details are well aired. If you continue to boil, bear in mind that any path you take has its dangers. Your main choices:

► **Confronting the offender.** Employ maximum tact and diplomacy—especially if he's your boss. No matter how delicate your touch, you may permanently change your relationship with this person. He may smolder and strike back. At the least, what will riding an elevator or having lunch with him be like afterward? Advises Pat M. Hammaker, a former president of Montgomery Ward and now senior fellow at the Center for the Study of Applied Ethics at the University of Virginia: "You say, 'Boss, I'd like some advice. There's something you're doing that bothers me, but maybe my standards are cockeyed. Explain it so I'll understand.' Most bosses won't fire you on the spot. If he won't discuss it, then I think it's time to look for a job with another company. It's your sense of ethics that's being violated, not everybody's, and it's not your place to

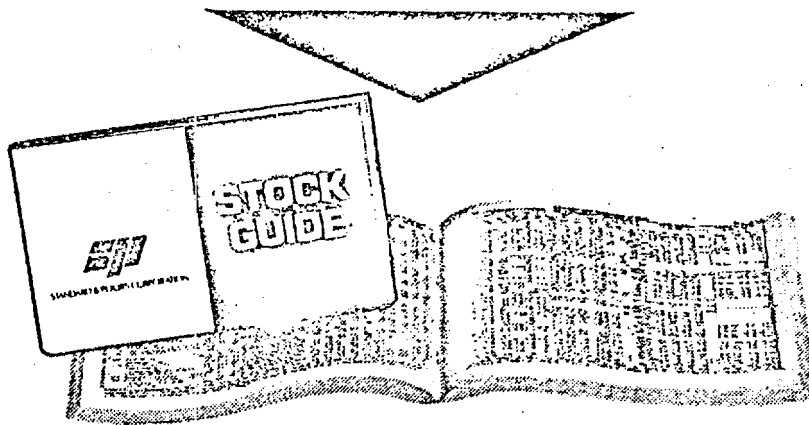
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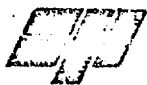
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Protection to the offender's superiors. In most organizations this is a form of personal disloyalty. If your boss finds out and you lose the fight, you're dead," claims Peter Petkas, who directed Ralph Nader's now-disbanded Clearinghouse on Professional Responsibility, which investigated letters from people who charged their employers with defrauding the public.

If you do go over somebody's head, it may be best to go all the way to the chairman or president. "Business people at the top don't have any idea what's going on below most of the time," says Wayne Hopkins, a U.S. Chamber of Commerce specialist in white-collar crime. "They're grateful to find out."

J. Irwin Miller, chairman of Cummins Engine, makes a point of staying in touch. "Not a week goes by," he says, "but some employee comes to my office or my home to tell me about something dubious going on in his department that he thinks I should know about. I always get right to the bottom of it."

Not all corporate chiefs open their offices, let alone their homes, to rank-and-file employees to the extent Miller does, however. If you suspect that your top executive falls into the don't-care category, tap the executive two or three layers above your boss, far enough above him so that the two aren't in constant touch but close enough for the top man to be concerned. Most of *Money's* sources feel that disclosure should be personal—not over the telephone and not in writing, though you should be prepared to back up your charges with written documentation. "And make sure your own windows are clean," adds one executive recruiter. Clean windows, however, didn't help a former sales executive of U.S. Steel. Several years ago, after protesting to company officials that a new kind of pipe had been inadequately tested and might fail, with dangerous consequences, he was fired for "insubordination."

► Going sideways. It may seem best to inform someone in another department—the controller's office, for example, if your boss is juggling the books, or the general counsel's office if you suspect a law has been broken. But obviously you shouldn't just walk up to the nearest accountant scrawling in a ledger and blurt out your story. You're dealing with information that could leave your career in shreds if

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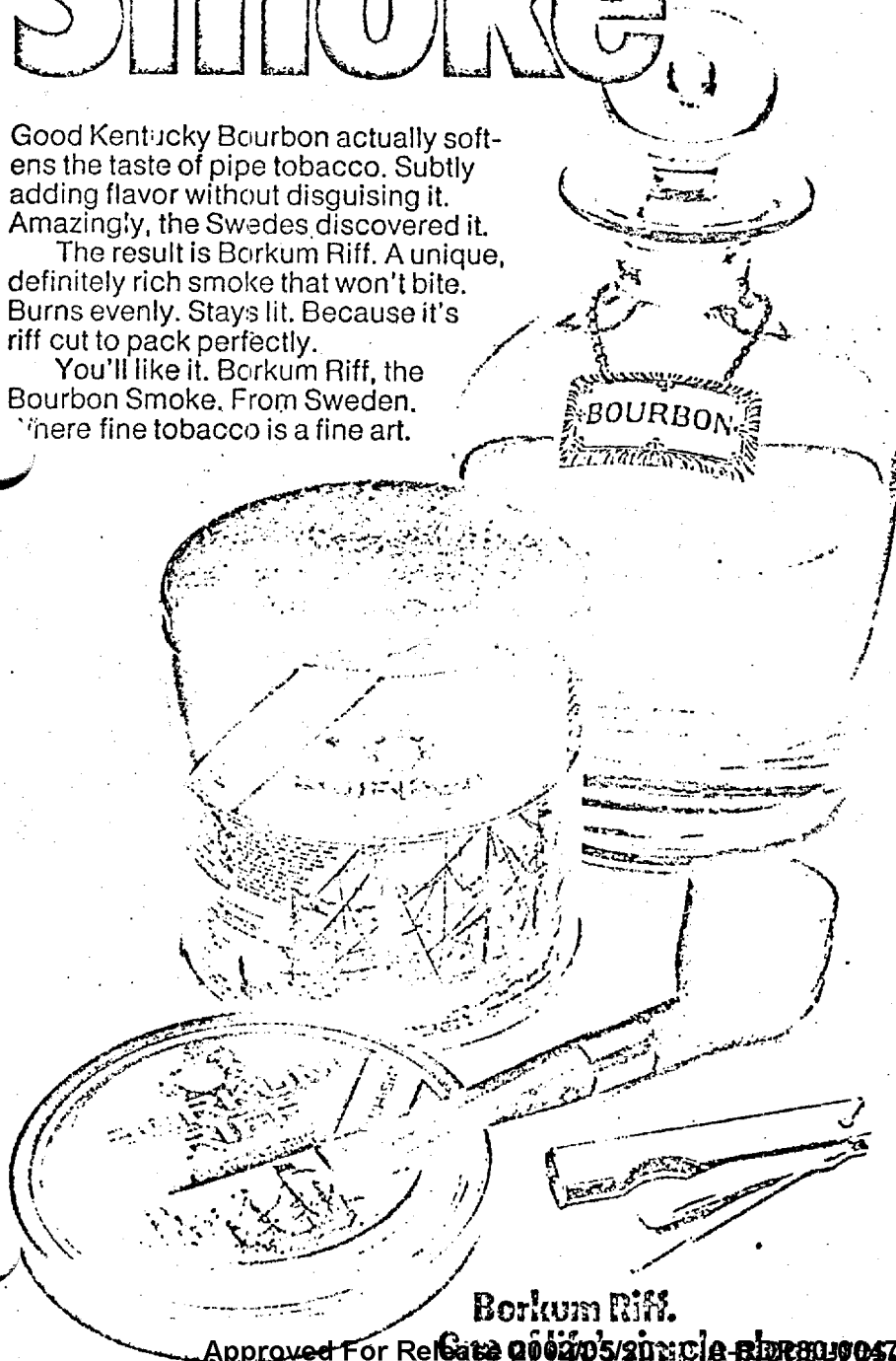
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handled carefully, so do what you can to choose the right person. The best way to find someone trustworthy probably is through a friend in the company who works regularly with the department you want to contact; someone who works with the payroll, for instance, may be able to steer you to the one closemouthed accountant in the controller's office. No matter how you find the right person, get to know him or her, perhaps over lunch. Finally, if you're convinced he can be trusted, suggest that he might want to check so-and-so's books, or budget reports, or whatever.

► **Sending an anonymous note.** This probably stands the least chance of success. "Anonymous tips in the suggestion box or by phone to the chairman aren't likely to work very well," says Harry Levinson, "because there are always disgruntled people with specious complaints. Most companies lack the mechanism to separate the wheat from the chaff, so the assumption would generally be that an anonymous note or call isn't worth pursuing." Nonetheless, this approach has the advantage of being comparatively safe.

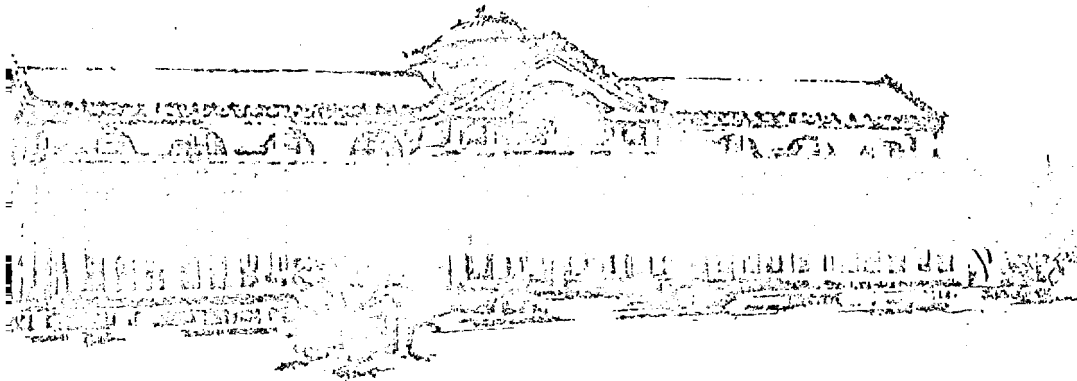
A mayor's tale

It's even safer to work for an outfit where ethical behavior is the rule from top to bottom. "A friend of mine was elected mayor of a good-size town," says Paul Hammaker, the former president of Montgomery Ward, "and one day he got a parking ticket. He could have ignored it, but instead he paid it. Then he got Christmas gifts at the office, but he returned them. A funny thing happened: when the people in his office got parking tickets, they paid them rather than having them taken care of; and when they got Christmas presents from politicians, they returned them. Office standards usually reflect the guy at the top."

END

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Colonel Barrie P. Masters (USA) is an Operations Research and Systems Analysis Officer who has done considerable work in the field of tactical and strategic intelligence. He was educated at the University of Oklahoma, BS; and the University of Southern California, MS. Colonel Masters was a member of the Class of 1976 at the Industrial College of the Armed Forces.

THE ETHICS OF INTELLIGENCE ACTIVITIES

How can we further America's interest in a world where power remains the ultimate arbiter, and at the same time remain committed to the strong moral values that gave birth to our Nation? How do we reconcile and advance both aspects of our national purpose? In short, how do we resolve the relationship between principle and the needs of power?

The above quotation from a speech by Secretary of State Henry Kissinger on July 15, 1975, appears to capture the essence of the current national debate over the role of ethics in the conduct of our national intelligence activities. Unfortunately the answers to these questions are not easily derived. The subject of ethics is difficult enough to come to grips with when one is talking about such relatively mundane activities as the practice of medicine or law or the pursuit of business profits. An examination of ethics as applied to our national intelligence activities, especially in peacetime, is made enormously more difficult by a score of unique factors. Included among these is the lack of general agreement over the legitimacy of the intelligence function itself, the difficulty of separating ends from means in specific functional areas and the belief in many quarters that the requirement for secrecy is such a vitally inherent component of a successful "intelligence activity" that the subject cannot even be properly

debated. Because of these difficulties, it seems that it is essential to begin by making some effort to define the terms "intelligence activities" and "ethics" before discussing them and to do this in a way that permits ends to be separated from means. After all, there is little point in debating the extent to which the public should have access to intelligence information, if the public has decided that intelligence collection is a repugnant operation which must be terminated.

Intelligence Activities

From the outset, it is important to establish that the term intelligence activities covers a variety of functions which, while often employing similar or even common means, are clearly aimed at different ends. If there is any common thread to define intelligence activities in a modern context, it is only that they involve the secret or erstwhile secret actions of one nation against others. The British divide the activities that we generally call "intelligence" activities into five main functional areas:

1. Offensive Intelligence—the business of divining the secrets of other nations.
2. Counter Intelligence and Security—operations designed to deny friendly secrets to the opposition.

3. Special Operations—the business of carrying out or supporting clandestine warfare against another state.

4. Political Warfare—the clandestine effort to influence the minds of the people or officials of another state.

5. Deception—the effort to disguise the true intentions of one's own policies and actions.

The advantage of recalling the British terminology for these various activities is to take note of the fact that the British assign each of these functions to distinct organizational entities. In the US this is not the case and the functional distinctions seem to have become badly blurred. One functional area (e.g., the responsibility for collecting information and producing intelligence about other nations) can be (and is) the responsibility of many agencies. At the same time a given intelligence agency (e.g., the CIA) can be (and is) involved in several or all of the functional activities simultaneously. These facts result in enormous semantic difficulties when the debate over the ethics (or, if you will, the morality) of an issue is joined. Take, for example, the following extract from a *Time* essay on the CIA (*Time*, 29 Sept 1975):

It was a year ago this month that the first revelation of Central Intelligence Agency dabbling in Chilean politics came out. Since then, more than a quarter-century's worth of skeletons... have tumbled from the agency's closet. Today the CIA is the least secret espionage service in the world, and its director, William Colby, the most visible and interrogated master spy in recent history. The agency has been in hot water before, of course. But unlike the uproar that followed the Bay of Pigs fiasco in 1961, the current controversy threatens the very existence of the CIA.

The CIA has lost, perhaps forever, the special dispensation that

it was allowed by many Americans and their elected representatives for the first 27 years of its existence. Few people today accept unquestioningly the notion that clandestine foreign operatives are a necessary evil. Even fewer would unblinkingly buy the assurance voiced by former CIA Director Richard Helms: "The nation must to a degree take it on faith that we, too, are honorable men devoted to her service." Almost daily, newspaper editorials, legislators and some presidential hopefuls characterize the CIA as a wasteful anachronism at best, an international menace and national disgrace at worst.

While William Colby is characterized as a master spy, the thrust of the criticism in *Time's* article (like many others) has nothing to do with spying—it has to do with the conduct of special operations or political warfare. It turns out that it is not unusual for the arguments about the ethics of intelligence activities to be like this—with the antagonists and protagonists talking about completely different subjects (one view is that the CIA is essential because national survival depends on intelligence while another argues that the CIA is a national disgrace because it has been known to dabble in Chilean politics).

The term "intelligence activities" has become so corrupted and misunderstood that it holds little useful meaning, particularly for the general public. Actually there are three distinctly different activities carried out under this sobriquet, each of which must be examined separately.

A. The Intelligence Function

The intelligence function is only the production of knowledge, usually about other states. It is a function that has been carried out by states throughout recorded history.

What enables the wise sovereign to achieve things beyond the reach of

ordinary men is foreknowledge. Such knowledge is not available from the gods, from the study of history or from calculations. It must be obtained by the use of secret agents. SUN TZU, Chinese military theorist, 600 BC.

And the Lord spake unto Moses saying, Send thou men that they may search the land of Canaan. And Moses sent them to spy out the land to see what it is and the people, whether they be strong or weak, few or many. Old Testament, Numbers 13:16.

Adequate knowledge of the policies, aspirations, and capabilities of foreign states, linked with adequate information about one's own domestic intentions and capabilities, provides the foundation on which each state can build its national policies. The requirement for states to interact with other states, whether they be friendly or belligerent, carries with it a requirement for states to develop knowledge as a basis for their foreign policy decisions. This requirement in turn places an inescapable responsibility on the national leadership of each state to provide for the collection of information from and about other states. The fact that Americans have historically been somewhat uncomfortable with the uses and responsibilities of power does not diminish in any way the obligation of our national government to provide for the collection and evaluation of information (i.e., the production of intelligence). The fact that the USA is in the position it is, as a world power, means that this effort has assumed global proportions.

The discharge of the intelligence function requires the accomplishment of three separate but related actions: 1) the acquisition of information from or about other nations, which is the *foreign collection* effort, 2) the acquisition of relevant information about one's own state—its citizens, economy, capabilities, limitations, requirements, etc., which is the *domestic collection* effort and, 3) the analysis and interpretation of the two sets of information, is termed the *intelligence production*

effort. Each of these aspects of the intelligence function poses very different ethical problems. For example, given the fact that information exists, there do not seem to be any ethical questions associated with the production of finished intelligence. The analyst is indeed an honorable man in the service of his country. The ethical questions really all arise in the conduct of foreign and domestic information collection. In fact, it is the latter—domestic collection—that seems to raise the most dogmatic, unreasoned outcries from its critics, and the least degree of outspoken defense from its defenders.

B. Special Operations

A second distinct function that intelligence agencies carry out is the conduct of operations or activities that are directed at influencing events rather than at producing knowledge.

The service [British Secret Service] is not only an instrument for gathering other people's secrets but also for making mischief among the King's enemies. Any act is permissible, even assassination. The only crime is to be caught. If an agent is caught, he will be disowned.

—Smith-Dummings, Chief
British Secret Service, 1911-1939

There are many kinds of maneuvers in war some only of which take place upon the battlefield. There are maneuvers far to the flank or rear. There are maneuvers in time, in diplomacy, in psychology, all of which are removed from the battlefield, but react often decisively on it.

—Winston Churchill
1925

This function is known under a variety of euphemisms, such as special operations, special warfare, strategic services, etc., and may be considered to involve such things as propaganda, bribery, murder, deception, sabotage, war and a

host of lesser actions against foreign individuals or states. It is in this category that we find such actions as the Bay of Pigs operation, the influencing of Chilean politics, assassination plots, and so on. These operations are called intelligence activities for reasons that are very unclear, except that they may involve common sources and similar means, and frequently the responsibility for their conduct rests with agencies called intelligence agencies. The British categories of special operations, political warfare and, to some extent, deception all fit into this single functional area.

C. Counterintelligence and Security

A third distinct function that is carried out by intelligence agencies are those activities aimed at stopping other states from gaining knowledge or carrying out operations that are considered inimical to one's own interests. This area is fairly well understood, commonly defined and has seldom been the subject of ethical confusion. A nation certainly has a right to protect its secrets and prevent subversive or other inimical actions against its people. Also, since for all practical purposes we can say this is largely a domestic operation, the ethics of counterintelligence and security activities tend to be proscribed by domestic laws. It is precisely here, however, that ethical questions now arise. The questions involve means rather than ends. Is it ethical to ignore or even break domestic laws in the pursuit of counterintelligence and security goals? Apparently Richard Nixon

thought it was when he equated domestic opposition to a national security threat. Apparently the British XX Committee thought it was when they executed only German agents who didn't cooperate, sparing those who did. Apparently the CIA and the Postal Department thought it was when they surveilled the mail of private citizens in the name of national security, and so on. Unlike the ethical questions raised by foreign and domestic collection activities and special operations, where the questions are generally about morality in the absence of standards, the ethical considerations of counterintelligence and security activities seem to predominantly involve the morality of violating accepted standards, usually legal ones.

One other dimension needs to be considered before one can apply an ethical yardstick to any of these activities. That is the question of war or peace. A soldier has no difficulty in rationalizing his role as a killer in wartime with the fact that it is a crime for him to kill in peacetime. How about the intelligence operative? Does he have one yardstick for war and one for peace? If he does, how does he judge whether we are at war or peace in the modern context? Does the same rationalization apply to justify the collection of information about one's potential enemies, as about one's actual enemies? How about the collection of information about one's friends?

Between the extremes of peace and war lies a spectrum of international relationships which,

FUNCTION

| | Foreign Collection | Domestic Collection | Special Operation | Counterintelligence and Security |
|--------------------------------------|-----------------------|------------------------|----------------------|-------------------------------------|
| War | BLACK ZONE | | | |
| Varying International Tensions | GREY ZONE | | | |
| Peace | WHITE ZONE | | | |

particularly in the past thirty years, has rendered many historical standards inappropriate. How does the intelligence operative, or for that matter the government, determine an appropriate morality for this vast range of circumstances? Perhaps only one thing should be clear. It is unlikely that the question can be answered in the simple context of a single ethical standard, or even of fixed ethical standards. The solution is more likely to involve the development of ethical standards for each of the situations depicted in the figure on page 4 in a manner which also recognizes a third dimension of complexity—time and situation.

Ethics

Most people who think of ethics in terms of good or bad behavior usually proceed to apply their own standards of good or bad to judge the behavior in question. This may have some value from the individual's perspective, but it is of only small relevance to the formulation of an ethical practice. It is the existence of an ethical standard that provides us with a capability to make collective judgments about what is good or bad in society, just as it is the existence of a *code* of ethics that allows an individual to judge the morality of his own conduct and actions in the light of contemporary circumstances. Such a code does not seem consciously to exist in the US intelligence community, or if it does, people in responsible positions have been very slow to defend it.

It is not useful to approach the problem as if the question is about the ethics of an agency (Is the CIA a national disgrace?). Nor is it particularly useful to castigate the perpetrators of historical events in the intelligence arena for whom no standards existed except their own judgment of what was required to ensure national security and survival. Nor is it particularly useful to try to apply the precedents of domestic law to the conduct of anything like foreign collection—the Constitution does not impart rights on foreign nations, etc. What is important, at this point in time, is to establish some understanding of what ethics are

and of how a code of ethics should be applied to each of the areas described in the first part of this paper.

What do we mean by ethics? Despite the almost overwhelming national debate, it is remarkable that there has been so little effort to define the term ethics in any of the current literature on the intelligence community. That is not to say it hasn't been done, but it certainly must not have been done often. Nor is that to say that the term ethics is not used. It is used often by both the antagonists and the protagonists of the behavior of the intelligence community, but always without explanation. Authors and speakers alike use the term as if it carries a crystal clear meaning to their audiences, but inevitably the real basis for their argument is a key, usually an implicit but often debatable assumption.

Take, for example, the following extract from Lyman Kirkpatrick's recent book, *The U.S. Intelligence Community*, in which he poses a number of rhetorical questions as a basis for his discussion of ethics:

Are the intelligence activities of the US government consistent with American ideology? Has the US succumbed to the philosophy that the ends justify the means? Is American democracy in danger of being destroyed by the means purportedly being used to preserve it? If the legitimacy of the intelligence community is established, what are the ethical and moral bases for such activities? Have the ethical aspects of intelligence work served in any way to damage or destroy the morality of the nation?

Kirkpatrick accepts the currently fashionable assumptions that the ethics of intelligence activities should be approached from the perspective of American "ideology," honorable means, democracy, the morality of the nation and so on, without ever discussing the relevance of these concepts.

The uselessness of Kirkpatrick's answer to his own questions perhaps illustrates as well as anything the potential difficulties of accepting this approach (although his conclusions do not differ greatly from other similar attempts by supposedly knowledgeable people).

While intelligence work may not be among man's most honorable activities, neither is it the least worthy. If the people of the US believe in their way of life and want it to survive, then they must take the steps necessary for survival.

His answer, which infers that since there may be at least one less honorable profession somewhere, things must not be all bad, and that anything that contributes to the maintenance of our way of life should be acceptable, cannot give much comfort to those who believe that a question of ethics requires searching appraisal.

How should ethics be defined? There are many definitions in the literature. For example, Webster's defines ethics as (1) "the study of standards of conduct and moral judgment or (2) the system or code of morals of a particular philosopher, group or profession." However, in the specialized literature ethics is defined in terms of several more difficult concepts. Some authors use the term "the doctrine of moral principles" to define ethics, others use the term "the science of human conduct," still others see ethics in terms of a "moral philosophy." One can see the difficulties with all these attempts at definition as soon as they are applied to real situations. There is no generally accepted doctrine of moral principles. There is no scientific way to explain all human conduct. There are numerous moral philosophies to call upon.

The words moral, ethical, virtuous and righteous are commonly used interchangeably. But these words also provide for a great deal of flexibility in constructing an argument about what is ethical. It can be (and is) argued that ethics has nothing to do with common morals or uncommon virtue; that what is ethical can

depend on a higher order of rationalization such as that used to justify the theft and disclosure of national secrets on the basis that there is a higher order appeal to reason than merely obeying the law or a government regulation.

Morality relates to good or bad behavior. But the determination of what is good or bad behavior is highly subjective, depending on what society is used to and the underlying philosophical basis for the judgment of behavior. Morals change over time; they are readily shaped as society changes. What is important to understand is that *moral* implies conformity with a generally accepted standard of goodness or rightness of conduct or character at a given time. That is, morality must be judged against a prevailing code of ethics, not the other way around.

The question of ethical behavior in the intelligence community only becomes relevant if one in fact has a code of ethics. Much of the current furor over the past behavior of the US intelligence community seems to be based on a false promise that there is something called a code of American behavior for people in the intelligence business. There is of course no such thing. "American ideology" does not provide much guidance for "honorable men dedicated to the service of their country" when the alternatives may involve the destruction of the state itself or even the destruction of all mankind. A code of ethics must provide an objective set of standards to help an individual decide the moral questions which he faces from time to time and the basis by which a wider society judges the morality of individual acts. The important question for America to answer is not what the code should contain in specific terms but who should establish it. There are three of many possible answers to this question.

A. Society As A Whole

The American people are entitled to know what their government has done, the good and the bad, the right and the wrong.

—Senator Church
June, 1975

The leaking of official secrets is desirable if the official secret is information that the government is improperly hiding from the public and which the public has a right to know. This is a very important part of democracy.

—Senator Cranston
August, 1975

Both of these statements are based on a supposition that all activities of the national government are conducted solely in the interests of individual members of society, that individual members of society must be informed of everything done on their behalf by their government, and that out of this exchange will come some form of appropriate guidance. If one argues that intelligence activities are only conducted on behalf of the individual members of society, one can argue that it is only right and proper that society as a whole create the code of ethics. It may seem that the ethics of every government agency should be established by the people to whom it is responsible, but the facts are that this has generally never been the case, and, in any case, this would clearly present the most difficult set of criteria to come to grips with. There are a number of problems inherent in any claim that individual interests predominate in the formulation of a public policy. To what extent can individuals be relied on to know what their own interests are? To what extent is it permissible for the society to give special weight to the interests of some individuals rather than others? How can the inevitably conflicting interests of millions of people be justly served by policies that do not serve them equally? Should certain interests such as personal liberty and freedom from search be accorded such extraordinary weight that they transcend another interest such as national security or are there gradations of individual rights throughout the fabric of our society? These problems generally make it impractical to formulate anything as complex as the subject on the basis of individual interests.

B. The Government

Another approach to the establishment of a code of intelligence ethics is to place responsibility on the group, within the society as a whole, which logically can be judged to hold rational and informed views toward the intelligence function itself and which, from the viewpoint of both the community and the society at large, has a legitimate responsibility toward standards-setting. In general, in the United States, it is the government grouping of which the intelligence community is a part, to which it reports, and to which it holds itself responsible that fills this requirement. In fact it is this group that the intelligence services tend to fall back on as the legitimate arbiter of ethical standards wherever forced by circumstances away from the use of "guild" ethics (which will be discussed next). Apart from the fact that this approach eliminates some of the complexities of the previous approach—it potentially, at least, limits the need to disseminate information which no one wants in the hands of foreign nations. It implicitly recognizes the argument that there is a national interest, conceived as something more than the interests of its individual members.

C. The Intelligence Community

Using the narrowest definition of ethics (the code of a particular profession) it can be argued (and is) that the code of ethics of the American intelligence community is set from within by the code of the world-wide intelligence community and that this is established by historical custom and practice. Using this concept, individuals regard themselves as highly skilled members of a worldwide "guild," practicing an art little understood outside the guild. Their activities are shrouded in secrecy, though they draw on a common history and common experiences. Individuals tend to have a common respect for each other as practitioners of a vital and sometimes dangerous trade regardless of whether they are cooperating or in opposition to each other.

The obvious tendency of this grouping is to judge intelligence ethics in the light of "what the other guys do." By implication, common practices are ethical, successful practices are ethical, or "whatever has to be done" is ethical. That the ethics of the American intelligence community have been "guild ethics" in the past should not be a surprise, nor a cause for criticism. With a couple of exceptions (like Stimson's policy "Gentlemen do not read each other's mail" and Eisenhower's acknowledgement of his responsibility for U-2 flights) there has never been any attempt by either the government or the people to establish any other basis for a code of ethics since the time the nation was founded. Nor should one jump necessarily to the conclusion that the guild ethics of the past are not in fact in the best interests of the nation after all. They have certainly stood other nations in good stead for more centuries than this country has existed.

Summary

It is virtually impossible today for an individual to take a rational position for or against any specific intelligence action on moral grounds. It is ridiculous to pontificate about actions that occurred in the past unless a domestic law violation was clearly involved. What is lacking is a code of ethics against which the morality of actions can be judged.

To conform with most Christian moral philosophies, a code of ethics would have to be a relative code and judgments would have to be made in terms of what is called "contextual ethics." This means that right would be determined by the total context of the decision and of reality—not by the application of moral laws from outside the context of the circumstances. This is a principle that seems to have escaped the notice of those who are currently bent on a witch hunt in the intelligence community.

There is no such thing as an American national ethic against which the morality of intelligence activities past, present, and future

can be judged. There is, therefore, no reasoned response to the question, is this or that activity consistent with an established morality, unless the action is one that clearly broke a law. Even then, if one argues that a nation's survival is its first and ultimate responsibility, and that national goals are conceived as something greater than individual goals, what is ethical does not necessarily need to be lawful. To quote two famous people from the annals of British history again:

We are bred to feel it is a disgrace ever to succeed by falsehood ... we keep hammering on the conviction that honesty is the best policy and that truth always wins in the long run. These pretty little sentiments do well for a child's copy book, but a man who acts on them had better sheathe his sword for ever.

—Sir Garnet Wolsely
Commander-in-Chief, British Army, 1869

In war-time truth is so precious that she should always be attended by a bodyguard of lies.

—Winston Churchill
Prime Minister, 1943

Again, what would be judged immoral in one context may have nothing to do with what is judged to be ethical in other circumstances.

The first key requirement is to differentiate between so-called intelligence activities on the basis of the ends they serve. Only then can questions of morality be applied to ends as well as means. Four functions have been identified which should be examined separately, each under a variety of scenarios ranging from what is traditionally known as war to what may pass for peace. The objective of this examination should be to avoid throwing the baby out with the bathwater in a spasm of righteous and misplaced morality. While it is nice for this nation to be at peace and to dream of being at peace for ever, history should teach the merits of using at least a certain amount of caution in that regard.

Once it has been determined which ends must be served and under what circumstances, the second key question is to determine who it is that should establish a code of ethics for each of the activities in question. There is little question that our society throughout our history has allowed most professional groups to establish their own objective standards of conduct to a major degree. However, in the case of the intelligence community, three factors have intruded.

1. The community appears to have done some things of very questionable wisdom regardless of standards of morality.

2. The community has done a very poor job of standing its ground on the basis of its own ethics when placed under attack.

3. A principal basis for all intelligence activities is to support the formulation or conduct of foreign and defense policies. As with most things in our society, times change and emphasis shifts. Foreign policy formulation, which was formerly considered the almost exclusive prerogative of the executive, is increasingly influenced by Congressional direction. This trend carries with it a natural tendency for increased Congressional interest in and regulation of national intelligence activities.

The Congress has now assumed and must shoulder the responsibility for establishing the ethical standards for the intelligence community—to clarify the confusion that has been caused by the destruction of confidence in former standards. In discharging this responsibility the Congress must also understand some new facts—the importance of distinguishing ends before means, the significance of contextual ethics, the importance of maintaining historical continuity as standards are changed, the undesirability of publicity for its own sake, and so on.

Congress does not have to set down a code of ethics in every last detail. In fact, in my judgment, that is to be avoided. What is

necessary is the establishment of clear guidance to the executive in sufficient detail to provide for the detailed implementation of standards by the executive branch. Common values link the American people and their government. We must have trust in these values while we forge institutional safeguards against abuse. It is not the society at large that can determine the proper ethical standard on a case-by-case basis. The society at large can, however, expect its representatives in government to provide guidance whereby its servants can judge the morality of their actions in the context of an ever-changing environment. The question is not whether national values should affect implementation of national policies but how. The purpose of our intelligence activities can be defined to safeguard those values and to do it without exposing honorable men to unnecessary public attack for past events.

Perhaps the single most useful action that could be taken in this whole field is to recognize and correct the difficulties that are caused by the poor definition and overlap of organizational functions. The clear separation of intelligence, special operations and counter-intelligence activities at the national level and the improvement of coordination within each of these areas would improve everyone's understanding of the processes involved. There are apparently few who question the need for nations to conduct covert intelligence activities in either peace or war and few who question the need to conduct special operations in war. However, there are many who question the desirability of special operations in peace and some, in influential positions, who are ready to condemn special operations under any circumstances. Without organizational changes in the intelligence community—including the removal of special operations functions from the CIA, new standards will be difficult to implement and even harder to monitor satisfactorily.

This paper was written as part of the NWC elective course—"Intelligence and the National Security Planning Process."

Toward Improved Creativity in the CIA

Internally, in the CIA the following elements seem to me important in diminishing our creativity:

- We do not clearly understand and distinguish the professional mindset of our various types of employees. In many cases, their extensive intellectual training and high degree of specialization lead them to seek satisfaction primarily in their professional peer reputation, rather than in the impersonal organization around them.
- Other employees, by dint of training and job tasks may have a greater personal commitment to the organization, with their focus sharply on satisfaction through an organizational career.
- We do not understand and adequately provide the necessary creative climate. For creativity to flourish, there must be a rather permissive climate within the organizational structure, with some autonomy for the creative individual. Most of our organization, however, is increasingly bound up in red tape and paper work, with increasingly structured and rigid rules of operation.
- As the Agency structure becomes more typically bureaucratic and impersonal, it promotes apathy, rigidity, unresponsive behavior and non-involvement by the personnel.
- There is a tension between organizational authority and professional authority. In the best of the professionally creative organizations, authority is based on personal knowledge, excellence, and expertise. In a bureaucratic organization, these qualities are supplemented by titles, power, and politics.
- In the conventional bureaucratic organization, the employee has to move up the line to obtain conventional authority; in so doing, he must give up the work for which he was trained, in order to do work for which he was not trained.

- The organization thus loses a competent, creative professional specialist and gains an incompetent administrator. Since the professional accepts the new job mainly for economic or status benefits, he may quickly cease to actively encourage creativity and professional excellence in the workers he supervises.
- We do not effectively understand the nature of managing a creative, professional apparatus that involves by its nature, a high degree of uncertainty. We apply clear-cut goals, exact schedules, and clear reports of projected results to situations that are not inherently clear-cut or exact.

Our professionals themselves contribute to the uncertain climate for creativity.

- Highly trained and specialized professionals usually have little preparation for understanding of the role and responsibility of management in a large organization. Even more serious, they often have little sympathy for it.
- Our highly trained and specialized professionals usually lack a full understanding and appreciation of the economic function and purpose of the Agency. Divergence between individual and professional goals inevitably occurs and the organization reacts with tighter controls. Frustration, dissatisfaction and lowered creativity follow.

The situation is clearly an intractable one; it can be ameliorated, but not fully solved: I believe the following approaches could be helpful:

- Studying and understanding more effectively the individual professional mindsets and motivational wellsprings of our professionals.
- Designing appropriate climates for creative work. This would mean stressing decentralized and less formal bureaucratic structure, with the greatest possible variety of opportunities for communication, interaction, and participation among professionals. It would mean less concern with personal "fitness" for an organizational pattern and a higher degree of individual freedom of choice in work focus.

- Establishing equally attractive reward systems for managerial and professional personnel. This would make it increasingly possible for some creative and effective professionals to stay in the trenches, rather than move to administration. The corporate world is solving this problem. The CIA hasn't as yet.
- Establishing appropriate training and sticking with it on a consistent basis to enhance the managerial competency of those professionals who move to administrative ranks. This training would include developing a more effective appreciation of the nature, functions, mission and purpose of the CIA as a whole.



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Report of a Seminar on Ethics and Creativity
in the CIA

SUMMARY

A representative group of senior CIA officers met recently to discuss the existing climate for creativity and responsible dissent as well as the nature of ethical consciousness today within the Agency. The group concluded that the controls and inspections visited upon the CIA have not curbed the imaginativeness and spirit of innovation among its officers, but that individual initiative has declined. Preserving and nurturing the best climate for creativity involves a number of important elements. Among these are:

- a clear knowledge of the aims and goals of the Agency--now somewhat lacking;
- a reversal of the trend toward the "sucking upward" of authority for decision-making;
- preservation of the new, more intensive spirit of concern with the potential impact of proposed initiatives;
- a more vigorous exercise of assigned authority by those at middle levels of the Agency's management; and finally
- conveyance of a "style of leadership" in the Agency which trusts, encourages, and is willing to accept the risks of individual initiative from below.

Some current aspects of management by objective and certain personnel practices were also cited as incumbrances to creativity.

While adequate channels exist for dissent in the CIA, there is room for improvement. Many officers still appear to believe that the way to get ahead is not to dissent from the views of authority. There is more awareness now of the existence of forums for the expression of dissent on legal or ethical grounds, but dissent grounded in concern

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for the wisdom of policy is still dampened in the view of most of the participants. The solution lies in assuring that the decision-making process at all levels encourages and truly reflects the pros and cons of a given situation. A willingness to tolerate and give a fair hearing to alternate views gets quickly communicated through an organization.

A general raising of the ethical consciousness of the Agency was deemed desirable, and one method to accomplish this is to strive for some sort of charter or code of ethics. The effort itself is important, in the view of the officers assembled, even if an actual code is not achieved. Some participants believed the latter might not be desirable at all, though they favored the effort. The group agreed that the issue of ethics in CIA was an Agency-wide issue and not one confined to the Operations Directorate alone. There was agreement that the Agency might be wise to set forth its policy toward, and the ethical and professional justification for, continued covert action programs, and to disseminate this internally. In our training programs we should strive not to teach ethics per se, but rather to raise ethical consciousness and to provide a means for trainees to face frankly and discuss openly the ethical aspects of the profession of intelligence.

The group was asked to address certain aspects of liaison, and it saw a need to concentrate on marshalling our best defense of the flexibility, benefits, and propriety of maintaining in some form our foreign liaison relationships. There is an interest vital enough here to draw the line to defend, as well as to engage in a concerted effort now underway to review alternatives to such relationships. (A detailed list of the recommendations of the group is at Annex A.)

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Report of a Seminar on Ethics and Creativity
in the CIA

Has the long trial of the Agency in the past three years put a damper on the creativity and initiative of its employees? Is healthy dissent constrained? Is our ethical consciousness dulled? Do we, in fact, need a canon of ethics in the CIA? These were some of the issues discussed by eleven senior officers from across the Agency meeting on 11 and 12 November under the auspices of OTR's Center for the Study of Intelligence.*

The Deputy Director of Central Intelligence, Mr. E. H. Knoche, opened the session, asking the group to suggest ways of advancing innovation and creativity in the CIA under the constraining impact of inspection and controls. Is the Agency open enough he asked; does it allow enough opportunity for dissent; and how might a climate be maintained that does not discourage responsible dissent? Mr. Knoche said that the American people now accept intelligence as within our constitutional system, but that the need remains to define the bounds of propriety for intelligence within this system. Should the ethics of intelligence be viewed only against the nature of the perceived external threat at any given time, or are there some "ethical eternal" for intelligence that can be reflected in a canon? Should we try to develop one?

*List of participants at Annex B.

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Mr. Knoche noted the increasing external criticism of the Agency's liaison relationship with certain repressive foreign governments (and of activities of these services in the United States) as an example of a problem involving the propriety of CIA activities. He asked the group to consider whether we are creative enough to find other ways to secure the positive intelligence benefits now accruing from these liaison relationships should we have to modify or terminate some of them.

A recapitulation of the group's discussion following Mr. Knoche's remarks is set out below, along with the group's general conclusions and recommendations.

Creativity in the CIA

If creativity within the Agency is defined as the ability to stimulate new and fresh ideas on what to do and how to do it, then creativity is alive and well in the CIA today; it is less healthy if measured in terms of individual initiative, and willingness to take risks. This was the near-unanimous view of the participants in the discussion. In terms of innovation and imagination, we are as strong today as ever.

If the need is there, sequels to the [redacted] [redacted] are well within our creative grasp, although the pressure of budgetary constraints may be causing our more imaginative thinkers to be somewhat less assertive in putting forward the grander schemes. On the other hand, some

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participants noted that the budgetary problems have actually stimulated the expression of good, alternative and cheaper ways of doing things than in the salad days of the past.

Our experience with real creativity is that it is irrepressible and cannot be held down. With a really good idea, there is still room in the CIA to try it. The DDI has just reorganized some of its structure, seeking a fresher, more effective product and a better climate for creativity. There are imaginative new collection activities underway in the DDO. The DDA, it was said, is a sharper and more perceptive outfit than in the past. From this perspective, the challenge with creativity is probably that mainly of protecting the climate we have now and of encouraging it more.

But creativity in terms of imagination alone is not the whole of it. If creativity is assessed in terms of certain important ingredients closely related to it, such as the willingness in routine situations to take new initiatives or to take risks, then the present CIA prognosis is not nearly so favorable in the view of the participants. They expressed the view that individual initiative down the line in the Agency has been dampened in the past several years to the point where a lack of it is having serious negative consequences on our overall performance. The reasons for this are numerous, and many are plain to be seen. The solutions, however, are not nearly so obvious, or confident,

or easy. Among the reasons and the solutions advanced by the group for the decline in initiative were:

- that the motivation routinely needed for it stems in large part from knowing clearly as an individual and as an organization where you are going and what you are doing. Our notion of this as an Agency is foggier today than in the past. Not only have we more people from new outside quarters telling us what we should be doing, but our own internal leadership has changed repeatedly in recent years causing rapid changes and some contradiction in marching orders. It takes time for this to clear; while the effect persists, the unfortunately typical reaction is to keep one's head down and mark time.
- that the outside scrutiny of the Agency has inevitably accelerated a trend toward centralization and a "sucking upward" of the authority for decision-making in the CIA, undercutting at lower levels at least, the climate needed for creative initiative to flourish. The diminished role of the branch chief in the DO was cited. With less authority for decision than in the past, he is not looked to as much for leadership and thus loses the motivation to take innovative initiatives. In contrast, our overseas chiefs of station, in whom we still entrust considerable individual authority, were cited repeatedly for responding well in that climate so propitious and stimulating for creativity.
- that the spotlight on the Agency is not altogether unhealthy by any means. It has resulted in a greater concern than in the past with the potential impact of a given initiative and with a more realistic concern for its potential value. Employee attitude surveys tend to confirm this, although some in the group were not sure it is a view fully shared by the younger officers. The trick, then, is to retain the constructive caution, but not stifle the initiative.
- that the responsibility for accomplishing this trick must in part rest with the individual officer. He can put his head down, be over-careful in checking with his supervisor, with the Inspector General, or the General Counsel's

office, or he can keep before him the vital need to exercise his responsibility and authority to the fullest with prudence, but not with over-caution. (Some in the group believed that the present trend to overcheck the propriety, indeed even the substantive wisdom, of many proposed Agency initiatives would lessen as we become more familiar with the new regulations and controls on us. Others believed that more checks will inevitably descend on us in time to come, thus perpetuating the present situation. Some believed there was a tendency to seek more from the Inspector General and General Counsel's offices than what either should provide, that is, legal opinions rather than policy decisions.)

- that apart from the individual officer's duty to fully exercise his authority, the solution also lies in part in a "style of leadership" in the Agency that must demonstrate a real trust and interest in initiative, that in fact demands it, is receptive to it, and sincerely tries to utilize it. In the view of the group, the way an organization is operated is the primary influence on the way its employees respond. People repeat rewarded behavior and try to stay away from what gets them in trouble. An overly-cautious leadership that fears to use the opportunities for a delegation of authority promotes an overly-cautious response in its employees. If the Agency leadership does not repeatedly demonstrate its trust and confidence in the rank and file, the Agency as a whole will not be able to show it is worthy of such trust. (Some in the group sensed an isolation problem developed in the Agency leadership in recent years. In the smaller, more closely knit CIA of old there was not the private elevator, the executive dining room, the vast building itself that made it possible for a top manager to come or go or to spend his whole day, if he wished, with no real exchange down the line that might feed him new suggestions, new initiatives from below).

While the tendency of the group was to place the onus for lagging initiative on attitudinal factors in the CIA, and not on the growing strictness of actual regulations, or on the

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seemingly ever-more structured and formal mechanisms for operation, management and decision in the Agency, there was a considerable unease evident about how these mechanisms are influencing our creativeness and initiative. The MBO system, in the view of some participants, tends artificially to drive our activities, resulting in the setting of objectives that may not represent a true consensus on what is really needed in any given unit. False goals, thus set, can camouflage real needs, meanwhile orienting the unit much more than is needed to an information-feeding process of progress reports and similar activity. In the view of these officers, creativity and initiative usually suffer when activity is overly focused behind a few formal goals.

But others took the position that MBO and similar management techniques often provide not only the linkage for dialogue on objectives and activities that has not existed in many units before, but an orderly and time-bounded procedure for the solution of problems and completion of goals. Accordingly, it has thus enhanced the opportunities for lower-level initiative and participation. The group perceived a current lack of a sense of participation as an inhibitor of initiative.

Another factor impinging upon the climate for initiative and innovation is the amount of frenetic distraction from our proper intelligence role which many view to be the main result

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of the manhours spent on such things as the Freedom of Information Act, the Privacy Act, and endless responding to investigations, and the simple but possibly more pernicious threat that attention to form and artificial deadlines will outweigh attention to substance in our work.

Agency personnel practices were also cited as barriers to creativity and initiative in some instances. Much of the individual's stimulus for initiative springs from the degree of job satisfaction he feels. If he is constructively busy and believes that he is contributing, his initiative and his creativity are usually good. The trick is to construct the division and management of work responsibilities so that the individual feels needed and purposeful in his endeavors. This is, of course, easier said than done in a bureaucratic organization, especially one, according to some participants, with serious personnel surpluses in some units at Headquarters. The group endorsed more serious Agency efforts to develop a "selection-out" process early in employment as one means of coping with the personnel surplus and maintaining job satisfaction. Continued effort at broadening rotational assignments between components and Directorates was also suggested as an important means of infusing fresh perspectives and, thus, more creativity throughout the CIA.*

*In encouraging broadened creativity and initiative among CIA officers, it is of course important to continue striving for the improvement of the caliber of our people. In the view (contd.)

The Suggestion Award System

In considering how to enhance creativity in the CIA, attention turns naturally to the already established system for suggestion awards in the CIA. The group discussed this system, and the question of whether it could be further used to encourage creativity--possibly by rewarding good ideas that for one reason or another could not actually be implemented.

It was noted that the suggestion award system is already one of the more successful in the government. However, its image (somewhat inaccurately) connotes a monetary reward for suggestions that are mainly intended to cut financial costs in procedures or save time for the Agency. Altering this image to encourage substantive initiatives on operations or other matters might be worthwhile and is probably worth some careful study. However, this could result in explicit rewards to people for simply doing their job, thus creating a psychological aura not favored by the group. Informal mechanisms, such as "developmental" or "think" units within individual components did find favor as mechanisms for stimulating an attitude or climate favoring creativity, as long as they were sufficiently flexible, informal, and closely tied to the every-day lifeblood activities of the units.

of the group, to do this it is necessary for management to get a better multi-dimensional view of its personnel for rating and promotional purposes. One step in this direction would be the inclusion of a peer-rating system along with supervisor-written fitness reports. The key to such a system's success would be to keep it focused on the positive qualities of the employee and avoid allowing it to become a stereotyped and routine procedure. Other steps suggested included additional emphasis on leadership training.

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they can cause beneficial change in a foreign liaison service's methods of operation by standing up for principles.

Opportunity for Dissent

Closely related to the encouragement of creativity and initiative in the Agency is the creation of a climate that does not discourage responsible dissent. The participants in the discussion generally agreed that some of the Agency's past difficulties and transgressions might have been avoided had adequate channels for dissent existed. In the past, dissent was essentially an individual initiative, with no guaranteed institutional reaction. The opinion was offered that some of our ex-employee critics may have been spurred to publicly turn on the Agency by the inadequacy of effective internal dissent channels in their day. Most participants believed that today more officers are aware of the existence of explicit institutional channels; for example, the strengthened Inspector General's office, although a minority questioned if this channel was effective for all categories of dissent. Nevertheless, the participants agreed that many officers in the Agency still appear to believe that the way to get ahead is not to dissent from the views of authority. One attitude survey was cited in which some 60 percent of the respondents said they feared opening up and expressing their views. How does the Agency overcome this frame of mind?

The group noted that two basic types of dissent are important to consider. Each has different consequences. There is on one hand dissent over the wisdom of a specific operation or policy. On the other, there is the question of dissent over the propriety in terms of ethics or law of an operation or policy. In the latter case, channels for registering dissent and for management to react to it are probably adequate. This was held by the group to be true, for example, with covert action planning. While there are still difficulties in this field (see section on ethics in the Agency), opportunities for dissent either in terms of the wisdom or propriety of the planning are not among them.

But the climate for dissent in terms of challenging the wisdom of a policy is another matter. Here, there is no easy institutional answer. An employee seriously dissatisfied with policy in his unit can approach the Inspector General's office. But this constitutes a major step, traditionally used only for issues of wide and serious significance. What about the day-to-day process in any individual unit of truly exposing the pros and cons of proposed activities? Does the climate exist to encourage this in a healthy way? Efforts to formalize or institutionalize the process at this level would be counter-productive, according to the participants, who feared it might spur the "Sam Adams mentality." Some present, in fact, contended that the growing formality and organizational

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discipline in our overall managerial and control structure is probably undercutting expressions of dissent by forcing it to be registered with such formality and finiteness that employees find the process seriously intimidating.

But the problems should not be thought of as simply one of expressions of view from the lower level upward. The issue is really the degree of openness existing above the level of the individual officer's sphere of responsibility. The way to achieve this openness, said the discussants unanimously, is to make sure that the decision-making process up and down the line is open and encourages participants at all levels, that it is a process that truly reflects the pros and cons of a given situation. This is accomplished by a managerial attitude that encourages alternate views, is willing to tolerate them, and to give them a fair and responsive hearing. If this attitude exists, it is quickly communicated throughout the organization. The need for formal channels or official mechanisms is diminished, if not eliminated.

Where institutional mechanisms are needed, some in the group suggested the value of recent experiments with so-called "A and B team" approaches in which a policy option, recommendation, or proposed operation is formally examined by groups with opposing points of view, each seeking to muster the best arguments for its view, but with each required to address the issue from comparable perspectives. Obviously, such an approach

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is most useful on issues of real significance and considerable breadth where time is not of particular essence. One group member also suggested that the Agency study the utility of an ombudsman system similar to that existing today in a number of public and private organizations.

Ethics in the Agency

The issue before the discussion group in this sphere was whether the CIA as an organization should give explicit attention to the nature and adequacy of its ethical values and, if so, how this should be approached. Before focusing on this general issue, the group attempted to identify the major Agency activities that often appear to raise questions of moral standards or values. It was asserted by some present that Agency employees as well as outsiders tend to view the ethical issue as focused primarily on the DO. While there is reason for this, it is clear that issues of ethical standards also arise with significant consequences in the other Directorates. Some of those mentioned for the DDI were:

- how to deal with requests for intelligence analysis that partially involved assessments of U.S. domestic developments. (The student attitude memorandums of the 1960's.)
- dealing with requests for intelligence analysis, especially from Congress, where the end use may be to prove a partisan political case, or even to support a re-election campaign.
- dealing with requests for intelligence analysis where it appears that a judgment supporting a policy position is desired by the requestor. This is complicated by institutional coordination problems.

Some ethical issues in the DDS&T involve:

- the proper control of contract activity to avoid opportunities for graft or other fiscal abuses.
- the extent to which the analysis of foreign civil technological developments can be conducted. Issues of industrial espionage arise here, as do questions of the release of the analysis without unfair benefit to U.S. firms.
- the extent to which the Agency should engage in so-called psycho-biographic studies that are not dependent on first-hand medical examination or contact, but on interpretation from inferred evidence--an ethical issue with psychiatrists and other like professionals.

In the DDA some of the main issues involve contract control and the maintenance of the proper relationship between Agency security activities and U.S. domestic police forces.

For the most part, however, the group concentrated its discussion on the agent-case officer relationship in the DO and on covert action operations. With regard to agent recruitment, some participants said that ethically the agent is considered a "consenting adult," usually more aware of the personal perils of his espionage activity than his case officer. Strategies which obtain his services under duress are not to be ruled out, although it is clear that most successful agent recruitments, certainly the more productive ones, usually are based on more positive factors. Two areas of agent relationships that were mentioned as warranting strong ethical concern by case officers involve recognition of the duty to protect

the agent from danger and identification if at all possible and to arrange a fair and equitable termination settlement when that point arises. In both relationships, according to one participant, the Agency has at best been inconsistent. There was unease expressed over the Agency's future ability to protect the identity of its agents and in turn the moral conviction with which the officer can promise protection to the agent. Most of the participants expressed themselves as against instructions to an agent that his handlers know would place him in extreme danger of identification or personal harm. It was also generally agreed that the Agency does not really take a needed long-term view of its agents, and that ethical issues arise for the most part from the short-term, pragmatic decisions made with regard to agents. MBO pressures which are akin to "scalp hunting" exacerbate the problem.

With respect to covert action operations, the group agreed that a serious attitudinal problem exists throughout the Agency that not only questions the ethical propriety of the covert action concept, but also involves the willingness of many officers to take proposed operations seriously enough to do adequate planning and evaluation in connection with them. With regard to the ethical propriety of the covert action concept, it was agreed that there is little use within the Agency in debating it in the abstract. An official statement aimed at our employees explaining the Agency's policy on covert action was deemed worthy of consideration by the

Agency's leadership. This, it was believed, would help generate a climate of openness about CA activity within the Agency that would aid in reassuring those employees who question the Agency's ethical stance on this issue. It would be difficult to avoid phraseology in such a statement that might negatively restrict the Agency's hand, if times and circumstances of external threat to the U.S. change. An effort to develop such a statement was nevertheless seen as worthwhile.

With regard to the adequacy of planning within the Agency for covert action, there was a consensus that an explicit educational effort is needed to increase understanding and acceptance of how the CA planning and decision process now operates. Such an effort would seek to make clear the opportunities in the process for evaluation of the pros and cons and the desire of the Agency to consider proposed CA operations not only in terms of the efficiency of the plan, but also in terms of its chances of achieving its intended result and the likely consequences of that result.

The issue of whether the Agency needs to develop and promulgate a general ethical canon or code for its activities drew a mixed reaction from the participants. It was asserted that younger officers in the Agency have a strong concern over ethical issues, and feel the weight of past "transgressions" by the Agency together with the responsibility for preventing them in the future. Unless we develop a canon, according to

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one participant, we really have no coherent way to pass on the traditional ethical standards of the Agency to younger officers. Another participant said that any organization with a mission as structured as that of the Agency has a de facto code of ethics whether it is written down or not. U.S. military organizations, it was noted, have recognized this and have attempted with some success to develop ethical canons responsive to the military mission. Agency critics, of course, are heavily concerned with the ethical question and, in the view of some participants, the Agency has failed to answer them effectively because it has not consciously developed a full and explicit ethical stance. We need to set some clear norms for ourselves, one participant said, because we are at our worst when we feel we can act differently from others. Our ethical responsibility to each other as intelligence officers and as at least one officer believed, to the people of the United States, is of vital importance in maintaining the esprit de corps and effectiveness of the Agency. Although no code can guarantee to stop ethical abuses, it could help. One thing no code can be expected to do, in the view of the majority of the participants, is to equip the Agency to say no to an outside administration or to Congressional pressure. If a code were developed, it was the unanimous view of the group that the Agency leadership, to make it effective, would have to stand consistently and clearly behind it.

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There was a clear awareness that an attempt to develop a formal code would be a formidable task, and might have some adverse effects. Such an effort could be viewed on the outside as hypocritical. Does an espionage organization really want to set professional standards for itself that put it on a par in a sense with established professions like medicine and law which operate with canons of their own? How specific should such a code be? How general? There would be so many twists and turns and subtleties of meaning to consider that the chances for misinterpretation and indeed the lack of clear understanding would be very large. One participant feared that such a code would only confuse the case officer, making him tend to shy away from the tougher agent decisions and initiatives--often the vital lifeblood of espionage.

The opportunities for various perceptions of such a canon were illustrated in a discussion of one such code that has been developed in draft and circulated for comment. Some Agency managers to whom it was shown objected on grounds that it added unnecessarily to their responsibilities; middle-level officers liked it, seeing it in part as a wedge with superiors to fight objectionable orders; the young officers in the DO liked it because it offered them an ethical rationale for engaging in espionage.

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One participant who was not enthusiastic about developing a code or canon of ethics suggested that if such an effort were made it should be cast in the form of a sort of charter in which the purpose of the organization is set forth in positive terms rather than in terms of ideals such as objectivity. Such a charter would permit the desired ideals to flow from the positive statement of purpose. There is a danger in setting up a list of negative "do-not's" in that we would appear to be stating that we would only execute those orders which fit within some stated set of ethics.

Whether or not it would prove possible to develop a satisfactory and defensible canon, there emerged a general consensus among the group that the Agency should probably make a serious attempt at it, while taking some other specific steps aimed at focusing the ethical consciousness of CIA above the subliminal level of concern at which it now exists. The very effort itself, whether we ever get to a fixed canon, may be the most worthwhile part of it. Discussion of ethical issues is needed for new people coming into the Agency. It offers them the opportunity to confront, and to explore problems they may face later in the course of their careers. Discussion of ethical issues should be made a part of the training program with specific time for the subject built into a variety of training courses including those for operational officers, analysts and support officers.

ANNEX A - RECOMMENDATIONS

of the Seminar on Ethics and Creativity in CIA

held 11 and 12 November 1976

1. To Preserve and Enhance Employee Creativity and Initiative, the Agency Should:
 - a. take every opportunity to stress that individual officers should try to exercise their responsibility and authority to the fullest, avoiding unnecessary referrals of minor matters up the line.
 - b. take every opportunity to stress the interest in and receptiveness of management to individual initiative.
 - c. continue to stress and develop personnel programs designed to cut the size of the Agency's work force, improve its evaluation systems for employees and provide opportunities for rotational assignments.
 - d. seek to stem the trend of decision-making authority to rise to ever-higher levels by a conscious effort to delegate authority downward, and set a tone of trust towards the levels to which that authority has been delegated.
 - e. take a detached look at the extent to which MBO and other formal management systems may be inhibiting creativity.
 - f. encourage the further development at a component level of informal "developmental" or "idea" units.
2. In Coping With Criticism of CIA Foreign Liaison Relationships, the Agency Should:
 - a. explicitly develop for use with the critics the best possible case for maintenance of responsible liaison.

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- b. explicitly request interested Agency officers to come forward with ideas for new collection techniques to compensate for any future losses in liaison information.
 - c. encourage initiatives designed to modify objectionable behavior of liaison services.
3. To Enhance a CIA Internal Climate that Does not Discourage Responsible Dissent, Management Throughout the Agency Should:
- a. take every opportunity to maintain an open decision-making process up and down the line that truly provides opportunities for pro and con consideration of issues in a given situation.
 - b. avoid the creation of further formal mechanisms for dissent, while seeking to apply, where circumstances seem appropriate, such techniques as the A team, B team approach to problems and issues.*
4. To Enhance Our Ethical Consciousness, the Agency Should:
- a. authorize an explicit, broadly-based effort to develop an ethical canon, recognizing that this is a tricky, difficult task, but that the benefits of the process itself will probably be well worth the effort.
 - b. provide explicit opportunities in the training cycle of the Agency for the discussion and exploration of ethical problems that arise in all parts of the Agency.
 - c. consider the dissemination of an official statement aimed at our employees delimiting and explaining the Agency's policies and processes on covert action.

*This recommendation was supported by a majority; a minority believes there should be further formal mechanisms on major issues.

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NATIONAL FOREIGN INTELLIGENCE BOARD

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17 January 1977

MEMORANDUM FOR THE NATIONAL FOREIGN INTELLIGENCE COMMUNITY

STATINTL

FROM:
Executive Secretary

The attached note from Mr. Bush is forwarded for your information. You are requested to handle further dissemination as you deem appropriate.

STATINTL

Attachment:
A/S

THE DIRECTOR OF CENTRAL INTELLIGENCE

WASHINGTON, D. C. 20505

17 January 1977

TO MY ASSOCIATES AND FRIENDS OF THE INTELLIGENCE COMMUNITY:

As my all too brief tenure as Director of Central Intelligence draws to a close, I want to thank each of you for the cooperation and support you have given me.

During the course of the past year I have come to realize that indeed the United States is blessed with the finest intelligence in the world. The dedication inherent in an assignment in the Intelligence Community is without equal. I have served in many fascinating assignments in public as well as private life, but nowhere have I encountered the degree of commitment which the Intelligence Community enjoys.

I wish I could have accomplished more in obtaining legislation to protect intelligence sources and methods. I worry about leaks from employees of the Community, past and present, and this nation needs a reawakening to honor the spirit as well as the code of our secrecy agreements. No foreign intelligence institution can be run without the strictest adherence to security.

I am pleased with the response the Community has given in implementing faithfully the President's Executive Order. All components have cooperated fully and I was particularly gratified to see for the first time a single consolidated budget prepared and submitted to the President on our National Foreign Intelligence Program. Moreover, the faithful observance of the guidelines of the Executive Order has gone a long way in restoring the confidence of the American people in our Intelligence Community. I congratulate all for making it work.

As I now leave the position of the DCI, I wish to express my gratitude for the support you have given me in carrying on our foreign intelligence mission. I have great faith in you; American intelligence is in good hands.

Sincerely,

A rectangular box containing a signature, which is not legible.

George Bush

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Manuals. Please Destroy After Reading.)

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PERSONNEL

10 January 1977

ANNOUNCEMENT OF ASSIGNMENT TO KEY POSITION
DIRECTORATE OF INTELLIGENCE

Effective 17 January 1977, [] is appointed Director STATINTL
of the Office of Imagery Analysis.

FOR THE DIRECTOR OF CENTRAL INTELLIGENCE:

JOHN F. BLAKE
Deputy Director
for
Administration

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